SUNDAY SALES p. 336


# The Solicitors' Journal

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# The Solicitors' Journal

VOL. LXXX. **Saturday, May 2, 1936.** No. 18

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## Current Topics.

### House of Lords Appeals.

From the short list of effective causes standing for hearing in the House of Lords for the Easter Sittings it would seem that the restriction on appeals to that august tribunal imposed by recent legislation is having its due effect. The list contains only nineteen appeals, of which no fewer than eight are from the Court of Session in Scotland, where, as yet, no embargo has been placed on appeals similar to that applicable to those from the English Court of Appeal. In a fair number of cases which have been decided in the last-mentioned court, leave to appeal has been granted where the questions of law involved have proved to be difficult and obviously susceptible of different interpretation, but, on the other hand, a large number of applications for leave have been refused. So far as is generally known, no refusal of leave by the Court of Appeal has been reversed by the Appeal Committee of the House of Lords. At one time, as we all know, there was an undue multiplication of appeals, first, to a Divisional Court, then to the Court of Appeal, then to the House of Lords, but the general curtailment of the right has been an eminently wise step. There must be an end of litigation somewhere, and the terminus for most cases has been decreed to be the Court of Appeal.

### A Ministry for Planning.

Speaking recently at the annual meeting of the Hampshire branch of the Council for the Preservation of Rural England, on the subject of planning on a national scale, Scott, L.J., emphasised the need of, first, a supervisory control by the Central Government over the operations of local authorities to ensure efficiency and co-ordination, and, secondly, a thinking centre which would look at the whole problem from a national point of view. These two essential parts of the constitutional machine were, the learned Lord Justice intimated, missing. The central authority should conduct a national survey, and be equipped with a statistical department in the service of its constructive thinking department. The correlation of planning with regard to needs, policy and execution was described as quite vital to the national welfare, and it was urged that a Ministry of National Planning for this one purpose should be set up now. Progress made under existing conditions was recently indicated in these columns on the basis of figures published by the Ministry of Health which is, of course, the present confirming authority. Those acquainted with the subject, while fully recognising what has been done, will be fully alive to the importance of the foregoing suggestion. If anything is to be done in the matter appropriate steps should be taken before it is too late.

### Prisoners' Aid.

*The Times* stated last week that a conference of Local Prisoners' Aid Societies had the previous day adopted recommendations of the committee, presided over by Mr. F. P. Whitbread, which was set up to inquire into the work of Discharged Prisoners' Aid Societies. This committee was appointed following the report of the Departmental Committee on the Employment of Prisoners which was appointed in 1932, and presented a report last May. In Part II of this report criticism was directed against the local aid societies and the Central Discharged Prisoners' Aid Society, and a recommendation was made that a National Council should take over the work of the latter and control the work of all the other societies. At the annual meeting last June Mr. Whitbread, Chairman of the Central Discharged Prisoners' Aid Society, was requested to set up a special committee to inquire into the present position, and this committee intimates that Part II of the Departmental Committee's report does not meet with the approval of the societies concerned. It is urged that centralisation on the lines recommended is not practical and that "committal areas," which form the basis of the scheme, are continually changing. "In considering questions of reorganisation," it is said, "it is well to remember that it is just as important to retain that part of an organisation which works well, as to improve, or change, or add. The Central Discharged Prisoners' Aid Society is a body competent to assist in bringing about any reorganisation found to be necessary and should be given a mandate from local aid societies for this purpose. The committees of the Central Discharged Prisoners' Aid Society should be remodelled and strengthened so as to meet the new requirements." In this connection it is interesting to note that, according to the report of the Kent Discharged Prisoners' Aid Society, among the reasons why some of the principal findings and suggestions of the Departmental Committee were unacceptable to the majority of aid societies was that the centralisation advocated was considered unsuited to work of a voluntary nature, particularly in view of the fact that local interest and personal service are essential factors to its success. There is, it is urged, no time for special training within a prison for short time cases, and, therefore, no justification for sending men to distant prisons when others are at hand. Such an arrangement is regarded as unfortunate from the point of view of efficient aid on discharge, for a prisoner has a far better chance of obtaining employment when dealt with locally and has had throughout his sentence the guidance of prison visitors familiar with local conditions. The importance of this aspect of the matter is evident in light of the statement that short term prisoners constituted 89 per cent. of the committals to prison.

## The Prisons Report.

THE report of the Commissioners of Prisons and the Directors of Convict Prisons for 1934 was issued last Saturday as a Blue Book. The report contains some informative statistics showing the progress which has been made during the past 25 years. Committals for drunkenness fell from 54,452 in 1910-11 to 6,838 in 1934. In the same period local prisons have been reduced by 30 to 26, annual receptions by the remarkable figure of 129,970 to 56,425, and the daily average population by 8,588 to 12,238. Changes in treatment include the abolition of separate confinement, the introduction of lectures and concerts, the improvement of prison libraries, the establishment of a system of adult education, the introduction of physical training, and an extension of the system of men and women visitors. In reference to fears expressed in some quarters that in the pursuit of new ideals, discipline—described as the necessary basis of all penal treatment—has been lost sight of, the Commissioners state that such a view is not shared by visiting justices, experienced prison officers and others well acquainted with the facts. "Discipline," it is stated, "continues to be maintained in H.M. prisons—of a different kind, no doubt, from that of the past, but not less effective on that account." In 1934, the total receptions into prison of men numbered 50,349—a decrease of 2,980 on the figure for 1933. Decreases are reported in committals by civil process (1,837), indictable offences (605), and Borstal detentions (61). On the other hand, committals in respect of offences against intoxicating liquor laws increased by 219. The receptions of women in 1934 numbered 6,076—a decrease of 170 on the total for the previous year. Imprisonments for non-payment of fines numbered 8,891 in the case of men, and 2,147 in the case of women. The former total contains 3,656, the latter 1,489, cases where the offence was drunkenness. In connection with the record which has been kept since 1930 of the subsequent history of all prisoners received on conviction of "finger printable" offences for the first time, it is stated that of the 22,062 received into prison for the first time during the years 1930-32, 18,226 or 82.6 per cent. had not, so far as is known, returned to prison a second time up to the end of 1934. The percentage is higher in the case of those without previous proved offences before committal to prison, being 86.4 as compared with 76.2 in the case of those with previous proved offences.

## Local Government Officers' Superannuation.

*The Times* recently indicated that there is every prospect of a Government Bill being introduced into Parliament next year to bring about compulsory superannuation in the municipal service. It was pointed out that some fourteen years have elapsed since the Local Government and other Officers' Superannuation Act, 1922, was passed, which was, it will be remembered, permissive. Although some three-quarters of the county and county borough councils now have superannuation schemes in force, only about half of the non-county boroughs, urban district, and rural district councils have introduced schemes. The National Association of Local Government Officers promoted a private member's Bill to secure compulsory superannuation in 1934. Before introducing the new Bill it is intimated that the Minister of Health proposes to follow a course taken in recent years and to discuss with representatives of the appropriate associations the scope and details of the proposed measure. The matter is naturally of considerable interest to solicitors who have adopted the municipal service as a career, and is intimately connected with the retiring age limit which is an important factor in such service. Moreover, the question of superannuation is likely to be an important consideration in the decision of those who contemplate a career of this nature. Readers interested in the subject may be invited to refer to the very informative paper read by Mr. PERCY E. DIMES at the Provincial Meeting of The Law Society at Hastings last September. This paper was fully reported in our issue of 25th September last (79 SOL. J. 710).

## Road Safety and Speed.

CALLS for the re-imposition of a speed limit operative throughout the country have come recently from two quarters. Mr. MAX BEERBOHM was the more extreme in his proposals. In a recent broadcast he urged that motorists even when complying with the thirty miles-an-hour limit in built-up areas are going too fast. "It would," he said (we quote from *The Times*), "be unreasonable to expect them to impose on themselves a speed limit of twenty miles an hour. But this is the limit which should—and sooner or later will—be enforced on them. Whether this slowing down of traffic will cause a great or a small loss of national income is, I am told, a point on which expert economists are not agreed. What is certain is that it will save annually a vast number of lives." In the course of a speech at the recent annual meeting of the Pedestrians' Association at the St. Ermin's Hotel, LORD CECIL, President, referred to the number of road casualties during the past year and said that one striking fact was that, while deaths had gone down considerably in the towns, there was a tendency for them to increase in the country districts. This he attributed to the speed limit, "however insufficient" in built-up areas. The only thing that would really make any diminution in the number of casualties due to road accidents was in LORD CECIL'S view the control and regulation of speed. The constant appeals made to justices to enforce more strictly the penalties for road offences were regarded with satisfaction. But, it was said, the association did not want penalties; they wanted precautions. These must be as thoroughgoing as they were on the railways. The thirty miles speed limit should be extended to all the roads in the country. Meanwhile it may not be out of place to note that the Commissioner of Police for the Metropolis has given instructions for a special campaign against drivers who exceed the existing limit in built-up areas, and many stretches of road in the various sections into which London has been divided for the purpose are being measured by the police with a view to timing vehicles. When the present speed limit was introduced, it is stated, the police made it plain that they were reluctant to revive the old type of trap over a measured distance, but have found that many offenders can only be brought to book by such traps.

## Accident Injuries: Restoration of Working Capacity.

WEDNESDAY'S *Times* contained the announcement that an Inter-Departmental Committee has been appointed by the Home Secretary, the Ministry of Health and the Secretary for Scotland "to inquire into the arrangements at present in operation with a view to the restoration of the working capacity of persons injured by accidents and to report as to what improvements or developments are desirable, and what steps are expedient to give effect thereto, regard being had to the recommendations made in the report issued by the British Medical Association in February, 1935, on 'Fractures.'" This report adverted to the importance of the industrial aspects of the question and contained a number of suggestions for improving the organisation of existing arrangements. The representative character of the committee is evident from the following list of members: Sir MALCOLM DELEVINGNE, formerly Deputy Permanent Under-Secretary, Home Office (chairman): Lieutenant-Colonel W. T. BRAIN (Association of Municipal Corporations); Miss MURIEL C. BYWATERS (a medical officer of the Board of Education); Mr. W. A. COCHRANE, F.R.C.S. (orthopædic surgeon, Edinburgh); Mr. G. L. DARBYSHIRE (L.M.S. Railway); Mr. W. S. DOUGLAS (Ministry of Labour); Mr. W. ELGER (Secretary, Scottish T.U.C. General Council); Mr. T. FERGUSON, M.D. (Scottish Health Department); Mr. E. W. HEY GROVES, M.D. (British Medical Association); Mr. G. F. JOHNSON (Accident Offices

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### Unemployment Insurance (Agriculture) Act, 1936.

The attention of readers may be drawn to the fact that the Unemployment Insurance (Agriculture) Act, 1936, comes into force on Monday. Its purpose is to bring agricultural workers within the scope of the Unemployment Insurance Act, 1935, and to make suitable modifications in that Act for the purpose. The Act contains seventeen clauses and five schedules.

### Rules and Orders: New Supreme Court Rules.

The attention of readers may be drawn to the amendments, largely of a drafting character, effected by the Rules of the Supreme Court (No. 2), 1936, set out on p. 350 of the present issue. The excision of the phrase "Married women may sue and be sued as provided by the Married Women's Property Act, 1882," from Ord. XVI, r. 16, and the amendments made to rr. 4 and 5 of Ord. XXXIV are, of course, dictated by the provisions of Part I of the Law Reform (Married Women and Tortfeasors) Act, 1935, as is also the omission of para. (*g*) from Ord. LIV, r. 12, and the foregoing rules as amended no longer contain any reference to married women. Readers must be referred to the rules themselves for the other alterations effected, but it may be shortly noted that these relate to the time for extensions for delivering a statement of claim (Ord. XX, rr. 1 and 6), to pleas of possession (Ord. XXI, r. 21), to payments into court (Ord. XXII, r. 2), to investment of cash under the control of or subject to the order of the court (Ord. XXII, r. 17), to the enforcement of judgments or orders for possession of land by writ of possession (Ord. XLVII, r. 1), and to the alteration of hours in the offices of the Supreme Court (Ord. LXIII, r. 9).

### Recent Decisions.

In *Skilton* v. *Epsom and Ewell Urban District Council* (p. 345 of this issue), the Court of Appeal upheld a decision of the Redhill County Court awarding damages to a cyclist for personal injuries arising from a loose traffic stud which was, by some means, shot at her bicycle by a passing car. Slesser, L.J., intimated that the insertion of the stud was not an act done in connection with highway maintenance, but was for purposes of traffic direction under the Road Traffic Act, 1930. The doctrine of non-liability for non-repair of a public highway did not, therefore, apply. The court granted leave to appeal to the House of Lords on terms that the defendant council paid the costs of that appeal in any event. The decision of the county court was noted in a "Current Topic" appearing in our issue of 29th February, at p. 155.

In *Starkey* v. *Hall* (p. 347 of this issue), a Divisional Court upheld a decision of justices to the effect that a scheme whereby a certificate and policy of motor insurance was handed over to the person in whose name it was taken only after all instalments due in respect thereof had been paid did not comply with the provisions of s. 35 of the Road Traffic Act, 1930, relating to compulsory insurance against third-party risks. The scheme was that a company selling motor cars on hire-purchase terms paid on behalf of the person requiring it the full premium of the policy, the proposal form being signed by the insured. It obtained the policy direct from the insurer, the amount of the premium being collected by instalments. It was intimated that the appellant never had the certificate required by the Act, and there was no evidence that it was received by the company as his agents.

In *Liverpool Corporation and Others* v. *Lancashire County Council and Others* (p. 345 of this issue), it was held that an Order of 21st October, 1891, of Commissioners appointed under the Local Government Act, 1888, determining the equitable adjustment as between a county council and certain county boroughs respecting the distribution of local taxation licences and the probate duty grant was no longer in force, and that a new financial adjustment was necessary in respect of the proceeds of local taxation licences, which adjustment ought to be made in the manner prescribed by s. 85 of the Local Government Act, 1929.

In *Cadogan* v. *Guinness* (*The Times*, 25th April), it was held that the period of fifty years named in s. 84 (12) of the Law of Property Act, 1925, is to be calculated from the date of a lease and not from such earlier date as may be mentioned therein for the beginning of the term. It will be remembered that sub-s. (12) above referred to applies the provisions of s. 84 relating to the discharge or modification of restrictive covenants to terms of more than seventy years after the expiration of fifty years.

In *Furness, Withy & Co., Ltd.* v. *Duder* (*The Times*, 29th April), it was held that the defendant underwriter was not liable under a marine insurance policy to the insured, who had paid to the Admiralty under a contract a sum to cover damages caused to a tug by a collision due solely to the latter's negligent navigation. The clause, which, it was held, had reference solely to some liability arising out of tort, not out of contract, provided, within certain limits not material to the decision, for indemnity if the ship should come into collision and the assured should "in consequence thereof become liable to pay and shall pay by way of damages to any other person or persons any sum or sums not exceeding . . . the value of the ship . . ."

In *Morley* v. *Moore* (*The Times*, 29th April) the Court of Appeal upheld a decision of the Bromley County Court to the effect that a plaintiff was entitled to recover from the person responsible for damage to his motor car the total cost of repairs, notwithstanding the fact that he had been paid that amount by his insurance company, less £5 in respect of which he was his own insurer. It was common ground that the company was entitled to be subrogated to the rights of the insured in respect of the loss it had paid, but the court held that there was no right on the part of the company to forbid the insured from exercising his common law right against the wrongdoer.

In *Thorne* v. *Motor Trade Association and Another* (*The Times*, 30th April) it was held that a rule of the defendant association to the effect that its council or price protection committee should have power to place a member's name on the stop list "unless within 21 days such member pay to the association a fine within limits to be laid down by the Council" was neither illegal nor *ultra vires*. MacKinnon, J., intimated that he was bound by the decision of the Court of Appeal in *Hardie and Lane, Ltd.* v. *Chilton* [1928] 2 K.B. 306. Reference should be made to *Rex* v. *Denyer* [1926] 2 K.B. 258, and to the statement of the Lord Chief Justice quoted by counsel in *The Times* report.

In *Re Ray's Will Trusts* and *Re Ray's Estate: Public Trustee* v. *Barry* (*The Times*, 30th April), it was held that a gift of "all my property to the person who at the time of my death shall be or shall act as the abbess [of a convent] . . . absolutely," was a good gift to the abbess at the time named for the purposes of the convent, and that it was not invalidated, under the provisions of s. 15 of the Wills Act, 1837, by the fact that the abbess was one of the two nuns who attested the will prior to her election as abbess.

# Sunday Sales.

By the Sunday Observance Act, 1677, s. 1, "no tradesman, artificer, workman, labourer, or other person whatsoever, shall do or exercise any worldly labour, business or work of their ordinary calling on the Lord's Day, works of necessity and charity excepted." Every person of the age of fourteen years and upwards contravening this provision is liable to a fine of five shillings, but this article is concerned with a much more important question, namely, the effect of the Act on the *validity* of sales entered into on a Sunday. This question involves several points of difficulty, which can best be considered under two distinct heads.

I.—The Persons to whom the Act applies.

The Act has no universal application. It regulates the actions only of people falling within one or other of the classes specified in s. 1.

"*Tradesman*": This word is used to indicate a person trafficking in goods, and includes an amusement caterer (*Hawkey* v. *Stirling* [1918] 1 K.B. 63), and also a refreshment-house keeper who sells articles of food for consumption off (*Duffell* v. *Curtis* (1877), 35 L.T. 853) or on the premises (*Amorette* v. *James* [1915] 1 K.B. 124), but not a barber (*Palmer* v. *Snow* [1900] 1 Q.B. 725). A person carrying on a lending library has been held to be a "tradesman" (*Lee* v. *Craven* [1935] 2 K.B. 161).

"*Artificer*": In *Palmer* v. *Snow*, *supra*, Channell, J., interpreted this word as meaning "a person who makes something," and held that it did not include a barber.

"*Workman*," "*Labourer*": Both words were held by Cockburn, C.J., in *R.* v. *Silvester* (1864), 33 L.J. M.C. 79, to mean "persons in employment."

"*Other persons whatsoever*": This phrase has to be interpreted *ejusdem generis* with the persons previously specified (*Palmer* v. *Snow*, *supra*), and accordingly does not include a barber (*ibid.*), a farmer (*R.* v *Silvester*, *supra*), the proprietor of a stage-coach (*Sandiman* v. *Breach* (1827), 7 B. & C. 96) or a solicitor (*Peate* v. *Dickens* (1834), 3 Dowl. 171).

Notwithstanding the dictum of Park, J., in *Smith* v. *Sparrow* (1827), 4 Bing. 84, to the effect that "The expression 'any worldly labour' cannot be confined to a man's ordinary calling, but applies to any business he may carry on, whether in his ordinary calling or not," it is now well established that, to contravene the Act, not only must the person belong to one or other of the preceding classes—he must also be exercising his "ordinary calling," otherwise the sale is not void either at common law or by statute. Accordingly, a sale of a horse by *private* contract by a horse-auctioneer on a Sunday is perfectly valid (*Drury* v. *De Fontaine* (1808), 1 Taunt. 131), and so also is a contract of hiring made on a Sunday between a farmer and a labourer (*R.* v. *Whitnash* (*Inhabitants*) (1827), 7 B. & C. 596), the receiving by a farmer of a mare to be covered by a stallion (*Scarfe* v. *Morgan* (1838), 4 M. & W. 270), and a guarantee given by a tradesman for the faithful service of a traveller (*Norton* v. *Powell* (1842), 4 M. & G. 42). In *Peate* v. *Dickens*, *supra* a guarantee given on a Sunday by a solicitor for the purpose of settling his client's affairs was held not to contravene the Act, as it is not in the ordinary course of a solicitor's calling to undertake personal liability for a client's debts, but, this reason quite apart, it seems clear that a solicitor, as such, is not within any of the classes of persons specified in the Act. The baking of puddings and pies is not part of the ordinary calling of a baker, but baking and selling bread is (*R.* v. *Younger* (1793), 5 Term. Reps. 449).

If the sale be carried out on a Sunday by a person belonging to one or other of the specified classes and in pursuance of his ordinary calling, the transaction is apparently *void* and not merely illegal. Accordingly, a horse-dealer cannot sue for damages for breach of a warranty made on the sale to him of a horse on a Sunday (*Fennell* v. *Ridler* (1825), 5 B. & C. 406). But, according to "Halsbury's Laws of England," vol. VII, p. 167, "A defendant will not be permitted to set up his own breach of the statutory provisions in order to avoid his contract, unless he can show that the plaintiff was aware of the illegality." The authority cited for this proposition is *Bloxsome* v. *Williams* (1824), 3 B. & C. 232. There the buyer of a horse, warranted to be sound, did not know that the vendor was a horse-dealer, and was selling the horse in the exercise of his ordinary calling, and such buyer was held entitled to sue for damages for a breach of the warranty, although the vendor pleaded that as the sale took place on a Sunday no action would lie in respect of it, Bayley, J., saying (at p. 235): "If the contract be void as falling within the Statute, then the plaintiff, who is not *particeps criminis*, may recover back his money, because it was paid on a consideration that has failed."

This decision was criticised in *Re Mahmoud and Ispahani* [1921] 2 K.B. 716, and the words of Bayley, J., were rejected as unsound by Bankes, L.J., if they were meant to apply to a claim for breach of warranty and not to a claim for the return of money paid on a consideration that has wholly failed, and since the claim in *Bloxsome* v. *Williams* was unquestionably for damages it follows that, in Bankes, L.J's view, the decision was clearly wrong. In *Re Mahmoud and Ispahani* the plaintiff sold to the defendant some linseed oil; under a D.O.R.A. regulation, then in force, the sale and purchase of linseed oil was restricted to persons holding a licence and, before entering into the contract, the plaintiff (who himself held a licence) asked the buyer whether he also held the necessary licence, and received an affirmative answer. The buyer subsequently refused to accept delivery on the ground that he in fact possessed no licence and that the contract was therefore illegal. In an action for damages, it was held that, notwithstanding that the defendant was relying on his own illegal act to avoid the contract, the seller could not sue on such contract. In view of this decision, it is submitted that the above passage from "Halsbury" cannot now be supported.

In this connection it is worthy of note that a purchaser is not liable to conviction for aiding and abetting in an offence under the Act in the absence of evidence that he knew that the vendor was carrying on his *ordinary calling* on a Sunday (*Chivers* v. *Hand* [1914] W.N. 381; *Fairburn* v. *Evans* [1916] 1 K.B. 218). A married woman who carries on her husband's business on a Sunday in his absence renders herself liable to a conviction (*Billingworth* v. *Menhinniek* [1909] 73 J.P. 384).

II.—Transactions to which the Act Applies.

The Act applies to transactions conducted in private as well as in public (*Fennell* v. *Ridler* (1925), 5 B. & C. 406). But, in order to contravene its provisions, is it necessary that the transaction should be actually completed on a Sunday? Looking at the wording of s. 1, and without considering the judicial interpretation thereof, one would have thought that the answer to this question would be simple and unqualified. It renders it unlawful for any "tradesman . . . to do or exercise *any worldly labour, business or work of his ordinary calling*" on a Sunday. Now, it is an important part of the ordinary calling of a tradesman not merely to *sell* goods but also to negotiate for their sale, and it seems reasonable to suppose that business negotiations conducted on a Sunday would be *verboten* as forming an integral part of the "worldly labour" of a tradesman, so that negotiations on a Sunday culminating in a sale on a week-day would constitute an infringement of the Act. This, however, is not the way in which the Act has been judicially interpreted, notwithstanding the opinion expressed by Park, J., in *Smith* v. *Sparrow*, *supra*, that "The Statute being designed for the support of the religion of the country, ought to receive an extended construction." It is now accepted that, to contravene the Act, the contract must be substantially *made* on a Sunday. Thus, in *Beaumont* v. *Brengeri* ((1847), 5 C.B. 301), where a contract to purchase a carriage had been entered into on a

week-day, it was held that the fact that the purchaser, prior to final delivery under the contract, used it on a Sunday did *not* disentitle the vendor from suing him for subsequently refusing to accept delivery under the contract. The headnote raises the question "whether the Statute 29 Car. 2, c. 7, avoids a previous parol contract for the sale of goods, where the delivery and acceptance take place on a Sunday?" but the report itself provides no answer to this question, the *ratio decidendi* being that there had already been a sufficient compliance with s. 17 of the Statute of Frauds (now s. 4 of the Sale of Goods Act) to amount to an acceptance of the goods.

*Bloxsome* v. *Williams*, which has already been criticised *supra*, is, in the present writer's opinion, unsatisfactory on this point also. In that case there was an oral contract of sale on a Sunday, and the requirements of s. 17 of the Statute of Frauds were complied with on a subsequent week-day, and it was held that the contract, not having been completed on a Sunday, was enforceable. Now, it is well established that a contract which does not comply with the requisites of the Statute of Frauds or s. 4 of the Sale of Goods Act is perfectly *valid*, but unenforceable, and it is difficult to understand why the fact that compliance with the purely formal requirements of the Statute of Frauds was furnished on a week-day should have validated a contract already completely entered into on a Sunday. It is submitted that the decision cannot be supported.

In *Smith* v. *Sparrow*, *supra*, a sale was effected by a broker on a Sunday, and on the same day a bought note was delivered to the purchaser and particulars of the contract entered in the broker's book, but the sold note was not delivered to the vendor until a subsequent week-day. In an action by the vendor for damages for non-acceptance, it was held that the contract was complete on the Sunday and was therefore *void*. Best, C.J., said (at p. 87) "I do not say that the mere inception of a contract on a Sunday will avoid it, if completed on the next day; but if most of the terms are settled on Sunday, and the mere signature be deferred to the next day, such a contract could scarcely be supported."

Where a party to a contract made on a Sunday undertook on a subsequent week-day to pay for the goods which had been delivered to him and which he was retaining, he was held liable on a *quantum meruit* in respect of his undertaking (*Williams* v. *Paul* (1830), 6 Bing. 653). But in *Simpson* v. *Nicholls* ((1838), 3 M. & W. 242) it was held that mere retention, without any express promise to pay, is insufficient to import liability to pay for goods so retained.

## Company Law and Practice.

**A Recent Decision on the Meaning of the Word "Ballot."**

The April number of the *Law Reports* contains the report of a decision by the Court of Appeal on a matter which is of much importance to all who are concerned with the drafting or the interpretation of articles of association; and I propose to devote this week's columns to some consideration of it. The case to which I refer is *Eyre* v. *Milton Proprietary, Ltd.* [1936] 1 Ch. 244.

The company's articles provided, by Art. 85, that at the ordinary meeting in the year 1925 and in every subsequent year, one-third, or the nearest number next below one-third, of *the whole number of directors*, should retire from office, and the meeting should elect qualified members in their place; a retiring director should be eligible for re-election at the meeting at which he retires and should act as a director throughout that meeting; the directors to retire in the year 1925, unless the directors agree among themselves, should be determined by ballot; and in every subsequent year the directors to retire should be those who had been longest in office since their last election, and when two or more of such directors should have served for an equal period, then their retirement should be determined by *ballot*. Article 90 empowered the board from time to time to appoint additional directors, but so that the total number of directors should not exceed the prescribed maximum; but any director so appointed should hold office only until the next following ordinary general meeting of the company, and should then be eligible for re-election. The words in Art. 85 that I have italicised are those whose meaning was considered by the Court of Appeal.

The events which led up to the hearing before the Court of Appeal were shortly these. The plaintiff in 1932 joined the board of directors of the company as an additional director under Art. 90, but was afterwards re-elected as an ordinary director; the second defendant was a Mr. C., the chairman of the board, and he also was originally an additional director, but later became an ordinary director. In the year 1935, the board was composed of the chairman and seven other directors, of whom two were additional directors and one was the managing director; here it should be noticed that by Art. 101 the managing director was not liable to retire by rotation or to be taken into account in determining the rotation of retirement of directors, so that *prima facie* one-third of seven directors might be called on to retire. The intention was, in fact, that it should be proposed, at the annual general meeting in December, 1935, that two directors should retire, namely, a Mr. K., who had been a director longer than any of the others, and either the plaintiff or Mr. C., each of whom had been directors for the same period; and accordingly, at a board meeting in the previous month, Mr. C., who was the chairman, asked the plaintiff to hand in his resignation, which the plaintiff refused to do. The question which of these two directors should retire at the annual meeting was again considered at a subsequent board meeting, and the plaintiff, the managing director and one other director, contending that the correct method of deciding the question was to draw lots, refused to vote; whereupon the chairman and the other four directors voted for the retirement of the plaintiff, and the chairman declared the resolution carried.

The plaintiff thereupon commenced an action against the company and Mr. C., and asked for an injunction to restrain the company from stating in the notice of the general meeting that the plaintiff was one of the directors retiring by rotation unless and until the question whether he or the chairman was the director so retiring had been decided by the drawing of lots, and also to restrain the chairman from submitting and the company from passing at any such meeting any resolution appointing anyone else to be a director in lieu of the plaintiff, as being the director retiring by rotation at the meeting, unless the plaintiff should first have been selected by a drawing of lots as the director to retire thereat. This was the sole question that Eve, J., was invited to decide on the motion, i.e., does the word "ballot" mean a "drawing of lots" or "a secret vote"? The other question as to the meaning of the expression "the whole number of directors" in Art. 85 did not arise until the matter was placed before the Court of Appeal.

In the view of Eve, J., the point was a very short one, and it is perhaps to be regretted that his judgment was also very short, and that his reasons were omitted. It was in the following terms: "In my opinion, Art. 85 indicates first that certain things are to be done if the directors are unanimous. That is to say, if there is no difference of opinion amongst them, certain things will be done as prescribed in the first part of the clause. If they do not agree, I am of the opinion that the point in dispute is to be submitted to a secret vote, where the names of the directors voting are to be concealed from the individuals who are ultimately to be turned out. I think in this case, therefore, the article confines the determination to the directors, and the particular directors to retire must be selected by secret vote of the whole body of directors": per Eve, J., at p. 246.

From this judgment the plaintiff appealed, and met with success. Both sides cited in argument various statutory enactments in which the word "ballot" appeared, but the Master of the Rolls early in the course of his judgment on this particular point, made quite clear the position as to such citations. He observed (at p. 251) that, after hearing the references to the history of this word "ballot" in the course of company legislation and also after being referred to other Acts in which the word has been used, the first conclusion at which he arrived was that the meaning of the word must be determined, wherever a company is using a set of articles of its own instead of Table A, by the construction of the particular articles as a whole. The court had been referred to the Building Societies Act, 1874, and to the Militia Acts, where provision was made for the choice of persons by ballot, but the Master of the Rolls rejected these citations, because they related to an entirely different subject-matter from that which was before the court. The court was also referred to the Companies Clauses Consolidation Act, 1845, where the word "ballot" was used in s. 88, in the following manner: "The directors appointed by the special Act"—and others appointed in their place—"shall . . . retire from office at the times and in the proportions following, the individuals to retire being in each instance determined by ballot among the directors"; so that, as the Master of the Rolls pointed out, the use of the word in this connection starts at a very early period of company legislation. Again, in Art. 59 of Table A of the 1862 Act there is a very similar provision: "The one-third or other nearest number to retire during the first and second years ensuing the first ordinary meeting of the company shall, unless the directors agree among themselves, be determined by ballot; in every subsequent year the one-third or other nearest number who have been longest in office shall retire"; this article, it will be observed, is not dissimilar in language to Art. 85, which I have already set out above. And in 1906 an alteration which gave rise to much discussion in the case, in the language of Art. 59 of the 1862 Table A, was made by the Board of Trade, acting under the power conferred upon them by the Act; they substituted the word "lot" for the word "ballot"; and this former word occurs now in Art. 74 of the 1929 Table A, which provides that: "The directors to retire in every year shall be those who have been longest in office since their last election, but as between persons who became directors on the same day those to retire shall (unless they otherwise agree among themselves) be determined by lot."

It was admitted in argument by both sides that the expression "by ballot" was capable of meaning either "by lot" or "by vote," and the Master of the Rolls emphasised that this was so. But with regard to this alteration by the Board of Trade, the plaintiff contended that no significance was to be attached to it because the change of word did not alter the sense but merely removed any possible doubt. On the other hand, the defendants urged that, in spite of the fact that the expression in the corresponding article in Table A had been altered to "by lot" long previously, yet "by ballot" was the expression used in Art. 85; and also that it could and should be fairly inferred from the alteration by the board that the change of the word "ballot" to the word "lot" involved an alteration in meaning which was not adopted in Art. 85. On this point, Greene, L.J., made this comment (at p. 259): "It is . . . to be observed that, so far as I have been able to discover, no text-book writer on the subject appears to attach any significance to the change in language which was introduced in 1906, and had the change in language in Table A had the importance which is suggested I cannot myself think that it would have escaped attention. The real fact of the matter is, in my opinion, that when in Table A of the original Companies Act, 1862, the word "ballot" was used, it was used in the sense of the word "lot," and the change introduced in 1906 was not a change in the meaning of the article, but a change in language in order to preclude any possibility of doubt as to what was intended by the Legislature."

Another aspect of the matter to which the Court of Appeal directed attention was the practical difficulty that arose if the meaning of "secret vote" was to be given to the word "ballot." "No doubt it is purely an administrative matter for the directors to ascertain in case of doubt or conflict which of the possible directors is to retire at any particular time, but Art. 85 contains no provision at all as to who is to determine the ballot, if by "ballot" is meant a vote. It is perfectly true that it might be implied that the persons to ballot must be the directors, but on the other hand, if the matter is to be determined by a vote of the directors, whether secret or not, it is clear that very serious administrative difficulties might arise. There might, for instance, be an equality of votes, and then there is no provision at all for anyone to give the casting vote. There would be an absolute impasse without any provision being made in the articles to meet it": per Lord Wright, M.R., at p. 252. Romer, L.J., took the view that by the use of the words "unless the directors agree among themselves" the parties to the articles of association had shown that by "ballot" they did not mean a secret vote among the directors themselves; and Greene, L.J., said he should have thought himself that if the word "ballot" was intended to imply a vote, the constituency to be considered would be the constituency of the members of the company present at the meeting rather than the board alone: "It is at the meeting that the retirement is to take place, and if that retirement was to be decided by a vote, I should have thought that, on the language used, the persons to vote would have been the shareholders." Greene, L.J., also said that in construing a document of this kind, which is intended to provide for the smooth and effective running of the machinery of the company, he thought it legitimate to rely, and to lay stress upon the fact that the interpretation of "secret vote" contended for by the company might, in circumstances which might very easily occur, lead to an impasse. He pointed out further that from 1862 to 1906, all companies which had adopted Table A, or that part of Table A which referred to this matter—and there were certainly many of them—were, whenever this occasion arose, according to the company's argument, deciding the question by a vote; and in view of the fact that an impasse is a thing which would be quite likely to arise, he found it difficult to believe that companies in all those years, if they were deciding this matter by vote, would not have found themselves, sooner or later, in a state of impasse which would have involved some person bringing the matter before the courts.

The decision of the Court of Appeal on this point is best summarised by quoting from the judgment of the Master of the Rolls, at p. 253, these words: "Although the language is capable in the abstract of either of the two meanings already mentioned"—of a secret vote or a drawing by lot—"I think that when regard is had to the precise terms used and to the practical advantages of the one interpretation, as contrasted with the other, of the word 'ballot,' the right one is the word 'lot.'" It is clear that the decision turned very largely upon the construction of these particular articles; but, speaking generally, it seems safe to say that in the absence of a contrary context it will be difficult to ascribe to the word "ballot" *simpliciter* the meaning of "secret vote."

The other point of the meaning of "the whole number of directors" is of particular rather than general interest, but unless the meaning of those words were plain, it would not be possible to determine the number of directors who had to retire in any particular year. The point is summarised by asking whether the two additional directors in 1935 were to be counted among the whole number of directors, remembering always that the managing director was excluded by Art. 101. The defendants contended that the two additional directors should be included, thus bringing the total to seven, so that

two directors should retire; but the plaintiff contended (and his view prevailed) that they should not be counted, thus giving five as the total, when one should retire, and this one was admittedly Mr. K., and neither the plaintiff nor Mr. C. The Master of the Rolls pointed out that, under the articles, additional directors were to hold office "only until the next following ordinary general meeting of the company," so that at the moment when such a meeting began they were no longer in office, whereas the other five directors, whether retiring or not, were to act as directors throughout the meeting; and there was no express provision, as in Art. 90, that the office of these latter directors was to continue to only until—i.e., to cease just before—the ordinary general meeting. The court therefore held that the number to be considered was only five, and not seven, directors; and, in the result, the plaintiff's appeal was allowed on both grounds.

## A Conveyancer's Diary.

**Lessees having constructive Notice of Lessors' Title—The Rule in *Patman* v. *Harland*.**

A RECENT case to which I will refer presently calls attention again to what is known as the "Rule in *Patman* v. *Harland*" and to the effect which s. 44 of the L.P.A., 1925, has upon that rule.

The rule simply amounts to this, that a lessee has constructive notice of his lessor's title and is bound by everything affecting that title.

It has been assumed and stated by most of the textbook writers that the rule was abolished by s. 44, and in the recent case to which I will refer that appears to have been accepted.

I dealt with this question at 75 SOL. J., 654, and there ventured to express the view that the decision in *Patman* v. *Harland* had not been overruled by s. 44 and remained in force in a number of cases.

The facts in *Patman* v. *Harland* shortly were that the plaintiff Patman conveyed certain land being part of a building estate to a purchaser Hervé, subject to certain restrictions and stipulations as to building and other matters contained in a deed of mutual covenant entered into by the plaintiff and Hervé and other purchasers of plots on the estate. One of the covenants in that deed provided that only dwelling-houses should be erected on the land in question. Hervé conveyed the land to the defendant Harland subject to the restrictions and stipulations contained in the deed of mutual covenant.

The defendant Harland erected a dwelling-house on the land which he had purchased and let the house on lease to the defendant Dennett for seven years for purposes other than a dwelling-house. The lessee had no actual notice of the restrictions or of the existence of the deed of mutual covenant.

It was held that the lessee had constructive notice of the title of his lessor, Harland, and therefore of the deed of mutual covenant, with the result that the lessee was bound by the restrictions.

The ground of the decision was that the lessee might have stipulated that he should investigate the lessor's title before he accepted the lease.

In fact the decision went even further, for it was held that even if the lessor had expressly stated that there were no restrictive covenants affecting the land, the lessee would still have been bound by them.

It is said, however, that s. 44 (1) of the L.P.A., 1925, has in effect overruled that decision.

In order to understand sub-s. (5) it is necessary to look at the three preceding subsections which read as follows:—

"(2) Under a contract to grant or assign a term of years whether derived or to be derived out of freehold or leasehold land, the intended lessee or assign shall not have a right to call for the title to the leasehold reversion.

(3) Under a contract to sell and assign a term of years to be derived out of a leasehold interest in land, the intended assign shall not have the right to call for the title to the leasehold reversion.

(4) On a contract to grant a lease for a term of years to be derived out of a leasehold interest in land, the intended lessee shall not have the right to call for the title to that reversion."

Those sub-sections, of course, only reproduce similar provisions in the V. & P.A., 1875, s. 2, and the C.A., 1881, ss. 3 (1), 13.

Then sub-s. (5), which is said to overrule *Patman* v. *Harland*, enacts—

"(5) When by reason of any of the three last preceding subsections an intending lessee or assign is not entitled to call for the title to the freehold or to a leasehold reversion, as the case may be, he shall not, where the contract is made after the commencement of this Act, be deemed to be affected with notice of any matter or thing which, if he had contracted that such title should be furnished, he might have had notice."

By sub-s. (10) the section only takes effect where otherwise not expressly provided.

Now, it is clear that s. 44 is only dealing with cases where there is a contract to grant or assign a lease. Sub-section (5) applies where "by reason of any of the three last preceding sub-sections" an intending lessee or assignee is not entitled to call for his lessor's title and those three sub-sections are applicable only where there is a contract to grant or assign a lease. Consequently, if there is no contract in pursuance of which a lease is to be granted or assigned, the section does not apply and the decision in *Patman* v. *Harland* remains binding.

The recent case to which I have referred is *Shears* v. *Wells* (1936), All. E.R. 832.

The facts were that the first defendant's property was, under a deed of 1852, subject to a restrictive covenant running with the land, forbidding the owner or owners thereof for the time being from carrying on any or suffering to be carried on any trade or business which should be noisy, noxious, dangerous or offensive to the neighbourhood or to the owners or occupiers of any of the land delineated upon a specified plan. The second defendant was a tenant of the first defendant, and it was alleged that by carrying on a garage and motor repairing business such second defendant was liable for a breach of the covenant.

It was held by Luxmoore, J., that under s. 44 (5) of the L.P.A., 1925, the onus was upon the plaintiff to show that the second defendant had notice of the covenant in question and, such notice not being proved, the second defendant was not liable for any breach of the covenant.

It does not appear from the report whether or not the second defendant was a lessee under a lease granted in pursuance of a contract nor in fact how he held, whether under an agreement for a lease or an actual grant of a lease, or on a mere verbal tenancy. I suggest that in the absence of any information upon those points it was not possible for any decision to be arrived at as to whether or not s. 44 (5) applied. If there had been a grant of a lease without any previous contract, then, as I contend, the rule in *Patman* v. *Harland* applied, and the second defendant was bound by the covenant, although he had no express notice of it. Everything seems to me to turn upon whether there was a contract or not.

It certainly is difficult to see why a lessee should be saddled with constructive notice of matters affecting his lessor's title when he takes a lease without any prior contract and not bound when there is a contract, but it appears quite plain from the wording of the sub-sections of s. 44, to which I have referred, that it is only when there is a contract that the tenant escapes having constructive notice of everything which affects the title of the landlord.

Generally, of course, an assignment of a leasehold interest is made in pursuance of a contract. Frequently, however, leases are granted without the parties having bound themselves by any agreement, and that, I think, is usually the case on the grant of leases of houses at a rack rent without any premium being paid, and if I am right, in all such cases the lessee is saddled with constructive notice of the lessor's title notwithstanding s. 44 (5) of the L.P.A.

It is to be regretted that this point was not taken in *Shears* v. *Wells*, and that from the facts as reported it is not possible to say whether the decision covers the point or not. I hope that some day there may be a decision which will set the matter at rest. In the meantime I adhere to my previously expressed opinion that s. 44 (5) did not overrule *Patman* v. *Harland*, except in cases where a lease or assignment is granted or made in pursuance of a contract.

## Landlord and Tenant Notebook.

**Liability of Assignor : The *Ratio Decidendi*.**

Many ill-advised grantees of tenancies think that by assigning their interests they get rid of all their responsibilities. Legal practitioners know that this is not so, or at all events not necessarily so. It is the qualification that makes the question why it should not be so worth examining. Indeed, at one time, there were various theories in vogue. One could have defended the following different propositions : that the matter depended on whether the demise was by deed or by parol ; on whether the tenancy was express or implied ; on whether the lessor had assented to the assignment (or recognised it) or not. All are wrong ; but support varying in degree can be found for each by uncritical perusal of judgments of such eminent lawyers as Lords Mansfield, Kenyon and Ellenborough.

Lord Mansfield is responsible, but not to blame, for the fallacy that the original tenant's liability would determine if the assignment were approved or recognised. In *Wadham* v. *Marlowe* (1784), 1 Hy. Bl. 437, his lordship tried an action of debt, the claim being for rent due under a lease for years. The defence as to the part of the claim was that it represented an amount accrued due since the tenant's bankruptcy, when the term had become vested in and been disposed of by commissioners. In his judgment, the learned judge observed that a tenant could not by his own act, without the assent of the lessor, destroy the tenancy ; therefore, until such assent be given, the lessor might avow upon the lessee as his tenant, notwithstanding an assignment had been made, and the assignee was in possession. This is, of course, unexceptionable, "such assent" meaning assent to the destruction of the relationship. But later the judgment says : "In the present case neither acceptance of rent, nor any assent by the landlord *to the assignment* is stated in the plea . . . " The divorcing of this wide proposition from its context has led to a certain amount of confusion. The passage has misled those who have failed to bear in mind that the action was founded on the reddendum.

For, in *Auriol* v. *Mills* (1790), 4 T.R. 94, now accepted as the leading case on the subject, though *Wadham* v. *Marlowe* was cited to him, Lord Kenyon did not trouble to refer to it. But while the facts were substantially similar, the judgment in this case proceeds upon a different principle. "It is extremely clear that a person who enters into an express covenant in a lease continues liable on his lease notwithstanding the lease be assigned over. The distinction between actions of debt and actions of covenant, which was taken in earliest times, is equally clear ; and if the lessee assigns over the lease, and the lessee accepts the assignee as his lessee either tacitly or expressly, it appears by the authorities that an action of debt will not lie against the original lessee, but all those cases with one voice declare that if there be an express covenant, the obligation on such covenant still continues." And the judgment proceeds to justify the rule in the light of reason and morality.

Lord Ellenborough's contribution was made in *Boot* v. *Wilson* (1807), 8 Ea. 311. The claim was again against a bankrupt tenant. The tenancy, of business premises in Piccadilly let at £160 a year, was not under seal, and it was on this ground that an attempt was made to distinguish *Auriol* v. *Mills*, and to rely on *Wadham* v. *Marlowe*. Examining the judgment of Lord Kenyon in the former, Lord Ellenborough demonstrated that the *ratio decidendi* was the liability on the personal covenant sued upon ; the defendant having personally promised to pay rent throughout the term could not divest himself of that responsibility. Whereas in *Wadham* v. *Marlowe* the action was for debt, and if the plaintiff contented himself or had to content himself with that remedy, his claim might be answered by proof that he recognised the assignee who was the person enjoying the beneficial occupation of the premises.

Leases and agreements which omit an express covenant to pay the rent reserved must be rare nowadays, but the position dealt with in *Wadham* v. *Marlowe* may occur when no express agreement has been made, and there is a tenancy from year to year by implication. The validity of the authority in question was recognised in Ireland in *Shine* v. *Dillon* (1867), 15 W.R. 847, in which a grantee-tenant, sued for use and occupation, put in evidence his assignment to a third party ; but this document recited the letter under which the defendant held of the plaintiff. Rent paid by the assignee had been acknowledged as paid by the grantee. It was held that the assignment which had put an end to privity of estate had not destroyed the contractual obligation on the defendant ; no deed was necessary ; nor did it matter whether the contract was express or implied as long as the plaintiff had not recognised the assignee.

The most recent authority is that of *John Betts & Sons* v. *Price* (1924), 40 T.L.R. 589. Two actions were consolidated in this case. The plaintiffs had granted a yearly tenancy, the agreement containing a covenant to pay rent, to the defendant in the one action; and he had soon afterwards assigned to a limited company, the defendants in the other action. From then on, rent was paid by the grantee defendant in the name of the company, and so accepted. Two quarters' rent being in arrear, the plaintiff gave the company notice to quit ; but before that notice expired he issued a writ for the rent due against the grantee. It is with this action (the other was for possession and mesne profits) that we are concerned. It was argued for the defendant that, the assignment having been recognised, *Shine* v. *Dillon* was authority that he was exonerated. But reference to *Auriol* v. *Mills* and to *Boot* v. *Wilson* exposed the fallacy, and he was held liable on the covenant to pay rent.

The way to approach such questions appears, then, to be : First, see whether there is an express covenant in the original tenancy agreement or lease. If there is, that concludes the matter. If there is not, see whether the assignment has been recognised. If it has not, the grantee remains liable. It is only when there was no covenant and an assignee has been recognised that the original tenant is free from responsibility.

The Lancashire and Cheshire Students' Society of the Incorporated Association of Rating and Valuation Officers has made provisional arrangements with the Manchester Education Committee for the formation at the Manchester Municipal High School of Commerce of Lecture Courses covering the Intermediate and Final Examinations of the Association. It is intended, provided a sufficient number of applications is received, that the courses should commence in September next and terminate in April, 1937. Those interested in the scheme should communicate with the Hon. General Secretary and Treasurer, 77, Princess-street, Manchester, 2.

# Our County Court Letter.

## THE REMUNERATION OF MINERS.

THE case of *Matthews* v. *Amalgamated Anthracite Collieries, Ltd.* (1935), 79 SOL. J. 795, 52 T.L.R. 23, was recently re-tried at Llanelly County Court, pursuant to an order of the House of Lords. The plaintiff had raised 122 tons 11·6 cwt. of large coal and 65 tons 16·4 cwt. of small coal between the 24th June and the 26th August, 1933. He had been properly paid for the large coal, but contended that he had received nothing for the small coal, and the new trial was for the purpose of ascertaining the amount due on a *quantum meruit*. The evidence was that underground transport had been simplified, and the plaintiff's wage-earning capacity had not been prejudiced by filling small coal into the trams, which might be utilised for large coal. The defendants contended that, *inter alia*, the new powder and the modern washery had enabled the plaintiff to raise large coal with less effort to himself. He had also been paid for dirt, mixed with the coal, as if it were large coal. According to the Conciliation Board agreement of the 9th February, 1934, and the Great Mountain Colliery price list for the Pumpquart season (dated the 18th December, 1911) the plaintiff had already been paid what was due. His Honour Judge Frank Davies observed that remuneration on a *quantum meruit* depended upon the amount of skill and labour involved in performing the services. Although it did not pay the defendants to bring to the surface the coal dust or duff, which comprised 45 per cent. of the billy, they had made no reduction in the rate of payment. Judgment was therefore given for the defendants, with costs on Scale C, including two counsel under s. 119.

## THE RIGHTS OF APPRENTICES.

IN the recent case of *Coward* v. *Almond Ltd.*, at Cambridge County Court, the claim was for damages for breach of an apprenticeship agreement. The plaintiff's case was that, in two letters, the defendants had undertaken to teach him the business of hosier and university outfitter, and, having thus become an apprentice, he could not be dismissed. The defendants contended that there was no apprenticeship; alternatively, that the agreement (if any) was repudiated by the plaintiff, whose misconduct entitled the defendants to dismiss him. His Honour Judge Farrant observed that an apprenticeship agreement need no longer be under seal, but it still had to be in writing and signed by the infant apprentice, as well as by his next friend, in order that it should bind the apprentice. As the plaintiff had not signed the alleged agreement, it was void as regards himself, as his short period of work with the defendants did not constitute ratification. Even if there had been such an agreement, the plaintiff's habitual and systematic conduct had rendered impossible a continuance of the relationship of master and servant, and was tantamount to a repudiation of the agreement. As the work of service and teaching could not continue, it was for the benefit of all parties to sever the relationship, and the defendants were justified in accepting the plaintiff's repudiation. Judgment was given for the defendants, with costs.

## COUNTY COURT CALENDAR FOR MAY, 1936.

Notice of the sittings during May on Circuit 36 was received too late for inclusion in the Calendar in last week's issue. The dates are as follows:—

**Circuit 36—Berkshire, etc.**

HIS HON. JUDGE RANDOLPH, K.C.

| | |
|---|---|
| *Aylesbury, 1, 22 (R.B.). | *Reading, 7 (R.B.), 14, 15. |
| Buckingham, 29. | Shipston-on-Stour, 5. |
| Chipping Norton, 20 (R.). | Thame, |
| Henley-on-Thames, 22 (R.) | Wallingford, 25. |
| High Wycombe, 7. | Wantage, |
| *Oxford, 11, 18 (R.B.). | *Windsor, 26, 27. |
| Witney, 13, 27 (R.). | |

* = Bankruptcy Court.
R. = Registrar's Court only.
R.B. = Registrar in Bankruptcy.

# Reviews.

*Local Government Law and Administration in England and Wales.* Vol. VI. By The Rt. Hon. THE LORD MACMILLAN, a Lord of Appeal in Ordinary, and other Lawyers. 1936. Royal 8vo. pp. xlvii and (with Index) 465. London: Butterworth & Co. (Publishers), Ltd. 45s. net. Thin edition, 47s. 6d. net.

This volume maintains the high standard set by its predecessors in the series and indicates fully and with admirable clarity the law on the subjects with which it is concerned. These range in alphabetical progression from fertilisers and feeding stuffs to highways, the latter being treated in five articles dealing respectively with authorities, drains, nuisances, extinction, and the rights of private persons. The last section contains an explanation of the principal provisions of the Restriction of Ribbon Development Act, 1935. Among matters of general interest dealt with in the work are the control of local authorities by the central government (*sub. nom.* Government control), general exchequer grants, the Ministry of Health, and various aspects of local government finance.

*Notable British Trials. Trial of Rattenbury and Stoner.* Edited by F. TENNYSON JESSE. 1935. Demy 8vo. pp. 298. London and Edinburgh: William Hodge & Co., Ltd. 10s. 6d. net.

Occasionally, the introductions to the Notable British Trials have lost force owing to the restraint imposed on a narrative written too soon after the event, but this is not the case with the present volume. While preserving a due discretion, the editor has produced a commentary, critical, analytical and mentally stimulating. The sympathetic touch with which the portrait of Mrs. Rattenbury is drawn can hardly fail to moderate the prejudice with which anyone, no matter how amoral his mental outlook, must approach the story of a woman so stupidly and vulgarly undisciplined. The editor's plea in mitigation shows considerable penetration, even though now and then rather more than justice is done to a character which in the main was worthless. No one who is interested in the administration of our criminal law as it is and as it might be should miss this book, and the general reader will find it (even the evidence) eminently "readable." The editor's revelation of the disgraceful conduct of a section of the press ought to be widely known.

## Books Received.

*The Law List*, 1936. London: Stevens & Sons, Ltd. 12s. net.

*The Student's Law Dictionary.* By G. R. HUGHES, B.A. (Oxon), of the Inner Temple, Barrister-at-Law. Sixth edition. 1936. Demy 8vo. pp. vii and 344. London: Stevens & Sons, Ltd. 8s. net.

*Russell on Crime.* Ninth edition. 1936. By ROBERT ERNEST ROSS, of the Middle Temple, Barrister-at-Law. In two volumes. Royal 8vo. pp. c and (with Index) 1,598. London: Stevens & Sons, Ltd.; Sweet & Maxwell, Ltd. £5 net.

*Dividend Income Tax Tables.* April, 1936. London: Fredc. C. Mathieson & Sons. 1s. net.

*The Relations of Church and State: "Catholics" in the Witness Box.* By L. K. KENTISH-RANKIN, M.A. 1936. London: The Church Association. Price 6d.

*Abyssinia. The last Stronghold of Slavery.* By G. C. BARAVELLI. 1936. London: "The British Italian Bulletin." Price 3d.

*Statutory Rules and Orders*, 1935. Royal 8vo. pp. viii and (with Index) 1,881. 1936. London: H.M. Stationery Office. £1 15s. net.

# POINTS IN PRACTICE.

**Questions from Solicitors who are Registered Annual Subscribers only are answered, and without charge, on the understanding that neither the Proprietors nor the Editor, nor any member of the Staff, are responsible for the correctness of the replies given or for any steps taken in consequence thereof. All questions must be typewritten (in duplicate), addressed to the Editorial Department, 29-31, Breams Buildings, E.C.4, and contain the name and address of the Subscriber. In matters of urgency answers will be forwarded by post if a stamped addressed envelope is enclosed.**

### Diversion of Footpath.

*Q.* 3294. I am consulted with regard to the proposed diversion of a public footpath in a rural area. Would you kindly inform me of the necessary steps to be taken to accomplish such diversion and confirm whether this procedure is governed by the Highway Act, 1835, ss. 85, 88 and 91, Public Health Act, 1875, s. 144, Local Government Act, 1894, s. 25 (1), and whether there are any other, and in particular any more recent, enactments affecting such a matter.

*A.* The necessary steps are the resolution of the local authority, the view by two justices, the fixing of notices and publication thereof in a newspaper. After the specified period the justices give their certificate, which must be lodged with the clerk of the peace. If no objections are lodged, an application is made by counsel, at quarter sessions, for the enrolment of the justices' certificate. The procedure is governed by the detailed provisions of the statutes mentioned in the question. There are no more recent enactments affecting the matter.

### Injuries from Defective Motor Lorry.

*Q.* 3295. A was employed by X & Co., Ltd., as a motor lorry driver, and whilst driving one of his employers' motor lorries the steering column became disconnected, and as a result thereof the lorry left the highway, ran into a wall and the driver received serious injuries. Subsequent examination has definitely established that the steering apparatus was defective and that certain nuts which hold the apparatus in position were missing. It may be assumed for the purpose of this question that the defect in the steering apparatus was due to the negligence of some employee of X & Co., Ltd., whose duty it was to examine the lorries and to keep them in proper condition. A's rights under the Workmen's Compensation Act are not sufficiently adequate to compensate him for his injuries, and he desires to make a claim against X & Co., Ltd., either at common law or by statute. In answer to a formal claim on A's behalf, X & Co., Ltd., state "the vehicles are maintained and driven by persons in the same employment as A, and it would appear to be a matter of common employment." Please indicate what rights A has in the matter, and whether the suggested defence of common employment will avail against A. Will the position be different if it can be shown that the same lorry had caused the *death of another* employee some months before, also due to defective steering?

*A.* The state of the lorry constituted a breach of the Motor Vehicles (Construction and Use) Regulations, 1931, art. 62. The defence of common employment is therefore not open to X & Co., Ltd. See *Groves* v. *Lord Wimborne* [1898] 2 Q.B. 418, followed in *Wheeler* v. *New Merton Board Mills, Ltd.* [1933] 2 K.B. 669, and *Flower* v. *Ebbw Vale Steel Iron and Coal Co., Ltd.* [1934] 2 K.B. 132. A has therefore a good cause of action for damages at common law. His case will be strengthened by the evidence (which is admissible) of the previous accident.

### Will—Partial Intestacy—Whether Intestates' Estates Act, 1890, applicable.

*Q.* 3296. A client, who died in 1921, gave his wife a life interest in the residue of his property, real and personal. He bequeathed the residue subject to the life interest to his nephew who predeceased him. The case appears to be governed by the case of *Twigg* v. *Black* [1892] 1 Ch. 579, in which Chitty, J., held that the intestacy was partial and the Intestates Act of 1890 did not apply. The point raised is, although there is an intestacy of the entire estate (so far as the gifts in remainder are concerned), the fact that the gift of the life interest took effect makes it one of partial intestacy. The question concerns the right of the widow or her representatives to £500 and interest under the statute. Is there a partial intestacy excluding the Act?

*A.* We certainly think that there was a partial intestacy excluding the operation of the Act, and this because *some* of the provisions of the will took effect. In *Re Cuffe; Fooks* v. *Cuffe* [1908] 2 Ch. 500, there was a will, but *none* of its provisions (not even the appointment of an executor) took effect, and thus it was held that there was a complete intestacy and the Act applied.

### Conversion of a Class C House into Business Premises.

*Q.* 3297. A is the landlord of a Class C house under the Rent, etc., Restrictions Amendment Act, 1933. The house is controlled. A desires to put a shop front in the house, and, assuming vacant possession is obtained and the conversion takes place, the house will then consist of a lock-up shop or a shop with living accommodation at the rear. The rateable value of the property on conversion will no doubt be increased over £13, and it is desired to know whether the house is still controlled as being a Class C house of which the rateable value on the appointed day was under £13.

*A.* If the shop front is put in the house and vacant possession is obtained the premises would appear to be taken out of the Act. A dwelling-house, when converted into business premises, loses the protection of the Acts (see Wilkinson's "Guide to the Rent Acts, 1920 to 1933," p. 14).

### Cost of Arterial Road.

*Q.* 3298. A and B own a piece of land through which, under the local town planning scheme, an arterial road 50 feet wide is scheduled. A lay-out plan of the said land showing the scheduled road, with boundary sites on either side, was provided by the local authority in November, 1932. Early in 1933 A and B requested the local authority to construct the road and offered to pay the cost thereof on the basis of a schedule of prices agreed with the local authority. This offer was accepted by the local authority in July, 1933, but no written agreement as to the making of the road was entered into. The construction of the road was commenced in August, 1933. The bye-law width of streets in the area of the authority concerned is 36 feet. The local authority claim to be entitled to recover from the owners the cost of the road for its full width of 50 feet on the ground that s. 27 of the Town and Country Planning Act, 1932, does not apply to a case where the request to do and pay for the work was made prior to the 1st April, 1933, the date of the passing of the said Act. What should be the attitude of the owners in relation to this claim?

*A.* The material date is not that of the request to do the work and the offer to pay for the making up of the road. This offer was not accepted by the local authority until July, 1933, after the commencement of the Town and Country Planning Act, 1932. The question of whether s. 27 is retrospective therefore does not arise, as the material date is that of the acceptance of the offer of A and B. The latter should therefore resist the claim in respect of the full width of 50 feet, and should rely upon s. 27 as applicable to their case.

# To-day and Yesterday.

## Legal Calendar.

27 April.—Richard Allibone, one of the last Roman Catholics to attain judicial office before the fall of the Stuarts finally excluded them from such promotion, entered Gray's Inn on the 27th April, 1663. He was called to the Bar in 1670, became a King's Counsel under James II in 1686, and in the following year was appointed a Justice of the King's Bench. His tenure of office lasted little more than a year, for he died just in time to escape certain attainder on the success of the Whig Revolution.

28 April.—On the 28th April, 1820, the trial of the Cato-street conspirators at the Old Bailey came to an end. Their daring plot to assassinate the members of the Government had been discovered in the nick of time, and Lord Chief Justice Abbott passed sentence of death. The penalty for treason was still to be drawn to the place of execution on a hurdle and hanged, and afterwards for the head to be struck off and the body divided into four quarters. This last detail His Majesty was afterwards "graciously pleased by warrant to remit."

29 April.—On the 29th April, 1806, the trial of Lord Melville opened in Westminster Hall. He was accused of grave financial irregularities in handling public moneys while he was treasurer of the Navy, and the case was one of the gravest scandals ever known in English public life. Though, after a trial lasting fifteen days, the peers acquitted him on all the charges, the majorities in respect of two of them were extremely narrow, and it is certain that though Melville had not embezzled any of the money himself, he had been guilty of considerable negligence. He never took office again.

30 April.—One of the earliest trunk murders culminated on the 30th April, 1851, when Eugene Viou, a young man of twenty, was tried at Paris in a court packed with spectators for the murder of his employer, a wealthy but somewhat eccentric manufacturer of bronzes. The neighbours had been astonished to see him shut up the shop of his master who, he said, had gone to the country for a few days. He then left, accompanied by two porters with a hand-cart loaded with a large box, which he directed them to dispatch by rail to await a fictitious addressee at a provincial station. The box contained the body of his master, whom he had robbed and murdered. After the discovery of the crime, the police traced him. He heard the death sentence unmoved.

1 May.—On the 1st May, 1718, Sir Gilbert Elliot, Lord Minto, died. He is a rare case of a man having been sentenced to death and surviving to become a judge, for he had actively joined in the Earl of Argyll's rising and had only escaped the consequences by flight. He was nevertheless convicted and suffered forfeiture in March, 1685. In July he was condemned to death. Two years later he received the royal pardon and afterwards took up practice at the Scottish Bar. With the advent of William of Orange good fortune smiled on him. He became a judge of the Court of Session in 1700.

2 May.—In the long series of actions in which he was involved through "John Bull," Horatio Bottomley chose to conduct his own case with consummate advocacy, briefing F. E. Smith for the paper. Sometimes the brilliant combination did not succeed, but generally it did as in the libel action brought by a solicitor named Beardall, whom "John Bull" had charged with helping to get a witness in a pending suit out of the country. The case was heard on the 2nd May, 1910. Bottomley, in his most impressive manner, protested his zeal in the cause of public morality, declaring he had a public duty to perform and won a verdict.

3 May.—On the 3rd May, 1713, Mr. Baron Lovell died at the age of ninety-five, having filled a judgeship with considerable incompetence for five years.

## The Week's Personality.

The legal career of Salathial Lovell is altogether unparalleled, for everything he did was late. Born in 1619, he was called to the Bar at Gray's Inn in 1656, when he was thirty-seven years old. He did not become a serjeant-at-law till he was nearly seventy. Four years later he stood for the Recordership of London, being elected by the casting vote of the Lord Mayor. Shortly afterwards, King William knighted him, and thus with more than three-score and ten years behind him, he embarked on his judicial career. A few years afterwards he thought he was in a position to petition the Crown for the grant of a certain forfeited estate on the ground that he had been more diligent in the discovery and conviction of criminals than any other person in the Kingdom, and that he had been the loser by it, his post being worth only £80 a year with a few perquisites, and usually being regarded as a mere stepping-stone to a judgeship in Westminster Hall. The Crown kept him waiting eight years for his reward, and as age advanced he became "distinguished principally for his want of memory, and his title of recorder was converted into the nickname of the Obliviscor of London." Nevertheless, in 1708, at the age of ninety, he was appointed a Baron of the Exchequer, retaining his place for five incompetent years.

## No Lawyers By Request.

In a barrister's will, recently proved, it was provided that: "Should any question either of fact or law or equity arise in the course of the administration of my estate, I direct that it should be decided by the absolute discretion of my executor and trustee, from whom the beneficiaries are much more likely to receive justice than from an appeal to the Courts." A somewhat depressing doctrine this, especially considering the number of eminent lawyers whose wills have led their heirs into some form of litigation—the brilliant and versatile Brougham, the cocksure and pugnacious Grimthorpe, the great Lord Halsbury, the learned Joyce, J., and Lord Llandaff, one of the most accomplished lawyers of his day. A pessimistic view of testamentary litigation was taken by Mathew, J., who used to say that the rule in equity for the construction of wills was: "First you ascertain the intentions of the testator and then you do the opposite." That was very nearly the rule which seems to have been applied in a not so very remote Chancery case in which the court had to interpret the wishes of a wealthy gentleman who left to his son "my tin despatch-box at present at the Wilts & Dorset Bank." The box contained valuable securities, but it was held that the plain words of the will must be adhered to and all the son got was the box.

## Golden Silence.

At the dinner of the Institute of Shorthand Writers practising in the Law Courts, Mr. Justice Hilbery said (*inter alia*) that in his court, the golden rule that a judge should be silent was duly observed, "not," he added, "on account of any innate taciturnity on my part, but because every member of the Bar sees in his mind's eye, hung upon the Bench, the large letter 'L.'" With this assurance we may feel sure that he will never go to the extreme of Sir William Grant, the silent Master of the Rolls, who, having listened to an elaborate and lengthy argument on the meaning of an Act of Parliament, said, when counsel had finished: "Gentlemen, the Act on which the pleading has been founded is repealed." Everyone knows the devastating effect with which F. E. Smith used a quotation from Bacon to quell a much talking county court judge. Silence on the bench was a favourite maxim of mighty Verulam, who, on one occasion, lectured Coke, C.J., severely on the subject: "In discourse you delight to speak too much, not to hear other men; this some say becomes a pleader, not a judge . . . When you wander, as you often delight to do, you wander indeed and give never such satisfaction as the curious time requires." All this, Hilbery, J., properly observes.

# Notes of Cases.

## Judicial Committee of the Privy Council.

### Ambard *v.* Attorney-General for Trinidad and Tobago.

Lord Atkin, Lord Maugham, Sir Sidney Rowlatt.
2nd March, 1936.

Trinidad and Tobago—Contempt of Court—Conviction and Fine—Quasi-Criminal Matter—Appeal to Privy Council—Competency—Right of Public to Criticise Administration of Justice—Extent and Limitations.

Appeal, by special leave, from a judgment of the Supreme Court of Trinidad and Tobago, dated the 5th September, 1934, convicting the appellant, Ambard, of contempt of court, and ordering him to pay a fine of £25 or, in default, to be imprisoned for one month.

The appellant was the editor-manager and part proprietor of the "Port of Spain Gazette." In June, 1934, at the same sessions, two men were convicted of different crimes. The one, for shooting at a superior officer with intent to do grievous bodily harm, was sentenced to eight years' hard labour by Gilchrist, J. The other, for attacking a woman with a razor and seriously mutilating her, was sentenced to seven years' hard labour by Robinson, J. On appeal, his conviction was quashed. On the 29th June, the appellant published a leading article in his paper, entitled "The Human Element." The article dealt at some length with the alleged inequality of sentences as applied to their particular circumstances. All intention to pronounce any opinion on the inherent severity or leniency of individual judges was expressly disclaimed. The two cases referred to were then mentioned, and the punishments inflicted contrasted, as being in the one case, too severe, and in the other, too lenient. The article concluded with a plea "for the greater equalisation of punishment with the crime committed." In July, 1934, the appellant was convicted of contempt of court in respect of that article.

Lord Atkin, delivering the judgment of the Board, said that the first question to be decided was whether, as contended by the respondent, the Privy Council was incompetent to entertain an appeal from an order of a Court of Record inflicting a penalty for contempt of court. The decisions on the point were conflicting: in *Rainy* v. *Justices of Sierra Leone* (1852), 8 Moo. P.C. 47, it had undoubtedly been decided that no such appeal lay, but the argument in that case had not been convincing. The decision in *Surendranath Banerjea* v. *Chief Justice and Judges of the High Court of Bengal* (1883), L.R. 10, I.A. 171, was difficult to reconcile with the doctrine which had found favour in *Rainy's Case*, *supra*, namely, that the Colonial Court was sole judge of what constituted a contempt, and that there was no remedy by way of appeal to His Majesty in Council to review the propriety of orders made by the court in that connection. In *McLeod* v. *St. Aubyn* [1899] A.C. 549, however, the Judicial Committee had entertained an appeal from an order committing for contempt, and allowed the appeal with costs against the respondent. The Board had in that case quite plainly assumed jurisdiction, and their lordships respectfully agreed with their view. Their lordships came to the conclusion, without doubt, that it was competent to His Majesty in Council to give leave to appeal, and to entertain appeals, against orders of the courts oversea imposing penalties for contempt of court. Interferences with the administration of justice were, when they amounted to contempt of court, quasi-criminal acts, and orders punishing them should, in general, be treated as orders in criminal cases; and leave to appeal against them should only be granted on the well-known principles on which leave to appeal in criminal cases was given.

With regard to the appeal itself, their lordships could find no evidence to justify the finding of the court below that the article had been written with the direct object of bringing the administration of the criminal law by the judges into disfavour with the public. It would be sufficient to apply the law as laid down by Lord Russell of Killowen, C.J., in *Reg.* v. *Gray* [1900] 2 Q.B. 36, at p. 40. It was made clear in *McLeod* v. *St. Aubyn*, *supra*, that the Board would not, in applying that law, lose sight of local conditions. No wrong was committed by any member of the public who exercised the ordinary right of criticising in good faith, either in private or in public, the public act done in the seat of justice, and he was immune so long as he abstained from imputing any improper motive to those taking part in the administration of justice and was genuinely exercising a right of criticism and not acting in malice, or attempting to impair the administration of justice. The appeal would be allowed, and the order of the Supreme Court set aside.

Counsel: *E. W. Cave*, K.C., and *R. A. Willes*, for the appellant; *F. P. M. Schiller*, K.C., and *Kenelm Preedy*, for the respondent.

Solicitors: *Maples, Teesdale & Co.; Burchells.*

[Reported by R. C. Calburn, Esq., Barrister-at-Law.]

## Court of Appeal.

### *In re* a Debtor (No. 994 of 1935); *Ex parte* The Debtor *v.* The Official Receiver.

Lord Wright, M.R., Romer, L.J., and Charles, J.
27th March, 1936.

Bankruptcy — Receiving Order — Application for Rescission—Debtor's Arrangement with Creditors—Unequal Treatment—Bankruptcy Act, 1914 (4 & 5 Geo. 5. c. 59), ss. 16, 108 (1).

Appeal from a decision of Mr. Registrar Kean.

A trader carrying on a small business suffered serious loss and a receiving order was made against him. He owed £84 6s. 8d. to the petitioning creditors and four other debts of £135, £210 and £104 respectively. Subsequently, without referring to the Official Receiver, he made an arrangement with his creditors under which the petitioning creditors were paid in full. £50 was paid in full satisfaction of the debt of £135 and the remaining creditors gave receipts though they received nothing. The Official Receiver considered that this was a case for composition under s. 16 of the Bankruptcy Act, 1914, and the learned Registrar refused to rescind the receiving order, holding that the debtor's release from bankruptcy should be by discharge. The debtor appealed.

Lord Wright, M.R., dismissing the appeal, referred to s. 108 (1) of the Act and said that in refusing to rescind the receiving order the Registrar was exercising a discretion with which the court would only interfere in very exceptional cases (see *In re Ford* [1898] 1 Q.B. 241, at p. 249). It was undesirable to interfere in the absence of exceptional circumstances, not merely circumstances of hardship or sympathy. The debts had not been paid in full and the creditors had not been treated on an equal footing. If the Official Receiver considered that there should be a public examination and the Registrar in his discretion had refused to rescind the receiving order, this was not a case where exceptional circumstances justified the court in departing from the ordinary rule.

Romer, L.J., and Charles, J., agreed.

Counsel: *G. Kingham; The Attorney-General* (Sir Donald Somervell, K.C.) and *C. N. Davis.*

Solicitors: *Edmond O'Connor & Co.*; *Solicitor to the Board of Trade.*

[Reported by Francis H. Cowper, Esq., Barrister-at-Law.]

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The Lords Commissioners of His Majesty's Treasury have had under review the qualifications necessary for appointment to the list of Public Auditors under the Friendly Societies Acts and the Industrial and Provident Societies Acts, and have decided that members of the London Association of Certified Accountants shall be eligible for appointment.

### Farmer *v.* Morning Post Ltd.

Greer and Greene, L.JJ., and Talbot, J.
27th April, 1936.

PRACTICE—LIBEL ACTION—NEWSPAPER REPORT—INTERRUPTION DURING JUDICIAL PROCEEDINGS—PURPORTED APPLICATION BY ONE NOT PARTY TO ACTION—WHETHER REPORT PROTECTED—LIBEL ACTION NOT DISMISSED AS FRIVOLOUS AND VEXATIOUS—LAW OF LIBEL AMENDMENT ACT, 1888 (51 & 52 Vict. c. 64), s. 3.

Appeal from a decision of Macnaghten, J.

During the hearing of an action brought by the plaintiff and tried before Hawke, J., and a special jury, one H.D., who was not a party, rose in court and asked to be allowed to make an application. What he said was reported in several newspapers, including that of the defendants. The plaintiff contended that the words published were defamatory, and brought the present action claiming damages. He had already brought libel actions against several other newspapers in respect of almost exactly similar words, which two juries, trying the actions consolidated into two groups, had decided did not in fact defame him. Macnaghten, J., in chambers, held that the words were a fair and accurate report of what in fact took place in open court, so that a good defence under s. 3 of the Law of Libel Amendment Act, 1888, was established, and accordingly he dismissed the action as frivolous and vexatious.

GREER, L.J., allowing the plaintiff's appeal, said that it might well be when the case was tried that the remarks complained of would be established to have been made in support of a real application, which was by itself a proceeding in a court of justice, but that was a matter for argument and should not be treated as a ground for dismissing the action as frivolous and vexatious.

GREENE, L.J., and TALBOT, J., agreed.

COUNSEL: *M. O'Connor; Murphy*, K.C., and *C. Burt*.

SOLICITORS: *Edmond O'Connor & Co.; Oswald Hickson, Collier & Co.*

[Reported by FRANCIS H. COWPER, Esq., Barrister-at-Law.]

## Appeals from County Courts.

### Skilton *v.* Epsom and Ewell Urban District Council.

Slesser and Romer, L.JJ., and Swift, J.
24th and 27th April, 1936.

HIGHWAYS—TRAFFIC STUD—LOOSE—THROWN UP BY CAR—INJURY CAUSED—LIABILITY OF HIGHWAY AUTHORITY—ROAD TRAFFIC ACT, 1930 (22 & 23 Geo. 5, c. 32).

Appeal from Redhill County Court.

The plaintiff, a cyclist, reached a line of traffic studs on the highway at the same time as a motor car. As it passed, a stud which had become loose was by some means precipitated towards her bicycle, which it struck and overturned. The plaintiff sustained injuries and brought an action for damages, alleging negligence against the defendant council because the stud was loose. The defendants contended that the stud formed part of the highway and that they could only be made liable for misfeasance and not for non-feasance. The learned judge held that the stud was an artificial work distinct from the highway as such and gave judgment for the plaintiff for £30 damages.

SLESSER, L.J., dismissing the defendants' appeal, said that the insertion of the stud into the highway was not done in connection with the maintenance of the highway. It was done under the Road Traffic Act, 1930, which provided for the regulation of traffic. Therefore the doctrine of non-liability for non-repair of the highway did not apply. The placing of the stud in such a manner that it became defective was a nuisance on the highway and the defendants could not take advantage of cases which dealt with the maintenance of the highway.

ROMER, L.J., and SWIFT, J., agreed.

COUNSEL: *Doughty*, K.C., and *W. Franklin; Beresford*, K.C., and *E. V. White*.

SOLICITORS: *William Charles Crocker: Reid Sharman & Co.*

[Reported by FRANCIS H. COWPER, Esq., Barrister-at-Law.]

## High Court—Chancery Division.

### Liverpool Corporation and Others *v.* Lancashire County Council and Others.

Luxmoore, J.
18th and 19th February and 22nd April, 1936.

LOCAL GOVERNMENT—DISTRIBUTION OF LOCAL TAXATION LICENCES AND PROBATE DUTY GRANT—ORDER DETERMINING EQUITABLE ADJUSTMENT — WHETHER STILL OPERATIVE—LOCAL GOVERNMENT ACT, 1888 (51 & 52 Vict. c. 41), s. 32—LOCAL GOVERNMENT ACT, 1929 (19 Geo. 5, c. 17), s. 85, Sched. 12, Pt. VI.

The Local Government Act, 1888, having constituted county councils in every administrative county in England and Wales and directed that for the purposes of the Act each of certain boroughs should be deemed to be an administrative county of itself and to be situated within a county also specified, regulated the financial relationship between the Exchequer and the county boroughs and the county within which they were to be deemed to be, and the contribution to be made by each to the union officers. Probate duty grants were provided from sums paid in pursuance of the Act to the local taxation account in respect of the proceeds of probate duties. Local taxation licences included licences, such as those for the sale of intoxicating liquor, for the right to deal in game, for guns, carriages, male servants, armorial bearings, etc. In 1891, the Commissioners appointed under ss. 32 and 61 of the Act made an order determining the equitable adjustment respecting the distribution of the local taxation licences and the probate duty grant. Subsequently, the order was from time to time amended, and immediately before the coming into force of the Local Government Act, 1929, on the 1st April, 1930, the aggregate proceeds were distributable by way of equitable adjustment between the Lancashire County Council and certain county boroughs in varying proportions. The plaintiffs, the Corporations of Liverpool, Manchester and Salford, now claimed against the Lancashire County Council and the Corporations of Barrow-in-Furness, Blackburn and other towns a declaration that the Order of 1891, since the 31st March, 1930, continued and would still continue to be operative in respect of local taxation licences included in the equitable adjustment until a new financial adjustment was made under s. 32 (6) of the Local Government Act, 1888, notwithstanding the provisions of the Local Government Act, 1929. The question was whether, since the 1st April, 1930, the Order of 1891 had continued to be binding with respect to the distribution of the proceeds of local taxation licences still leviable or whether the order had ceased to have effect with respect to them as well as to the discontinued grants.

LUXMOORE, J., in giving judgment, said that had s. 85 of the Act of 1929 stood alone it would have been fairly plain that the Order had ceased to have effect. Applying its material words, in this case there had been a "financial adjustment" between the "spending authorities" with respect to "the discontinued grants payable." Had it been intended to preserve the operation of the financial adjustment in any respect, one would have expected it to be expressed to cease to have effect "so far as relates to the discontinued grants, but not further or otherwise." But the section contemplated a new financial adjustment and provided a new method for arriving at it. The argument in favour of the continued existence of the Order of 1891 to the extent of the proceeds of

local taxation licences was based on the fact that Pt. VI of the Twelfth Schedule of the Act of 1929 only repealed s. 32 of the Act of 1888 so far as it related to discontinued grants, but the fact that the repeal was only partial did not justify a departure from the clear words of s. 85. Apparently, if the Order remained in force, the plaintiffs received a benefit at the expense of the defendants. It did not remain in force and a new financial adjustment was necessary in respect of the proceeds of the local taxation licences in the manner prescribed by s. 85.

COUNSEL: *Sir R. Stafford Cripps*, K.C., *Glover*, K.C., *Slack* and *Diplock*; *W. E. T. Jones*, K.C., and *Etherton*.

SOLICITORS: *F. Venn & Co.*, agents for *Walter Moon*, Town Clerk, Liverpool; *Norton, Rose, Greenwell & Co.*, agents for *Sir George Etherton*, County Solicitor, Preston.

Reported by FRANCIS H. COWPER Esq., Barrister-at-Law.]

## High Court—King's Bench Division.

### Latter *v.* Colwill.

MacKinnon, J. 2nd March, 1936.

CONTRACT—DEBT OF £266—AGREEMENT BY DEBTOR TO SATISFY DEBT BY DELIVERY OF TWO STATUES AND TWO PAYMENTS OF £20—IN CASE OF DEFAULT "WHOLE THEN REMAINING BALANCE" OF £266 TO BECOME DUE—DEFAULT IN LAST INSTALMENT—WHAT AMOUNT DUE.

Action for balance of moneys claimed due under an agreement.

The plaintiff was a bookmaker with whom the defendant had a number of betting transactions, in consequence of which he owed the plaintiff £266. Difficulty having arisen with regard to payment, the parties, in November, 1935, entered into an agreement whereby the debt was acknowledged and the defendant, in consideration of the plaintiff's forbearing to press his claim before Tattersall's Committee, undertook to settle all the plaintiff's claims against him by giving him a pair of bronze statues and £20 on the 4th November, 1935, and £20 on the 1st January, 1936. The defendant further agreed that if he should default in delivering the bronzes or paying the instalments on due date, the whole then remaining balance of the original sum of £266 should become due and payable forthwith. On the 4th November, the statues were duly delivered, and the first £20 paid. The defendant having defaulted in the payment of the £20 in January, 1936, the plaintiff brought this action to recover the balance of the £266, and the defendant paid £20 into court.

MACKINNON, J., said that, in view of the provision in the agreement that, in the event of the defendant's default, the whole remaining balance of the original £266 should become due, the question arose what, upon the failure to pay the second instalment, that balance was. In his (his lordship's) opinion, it was £20. The debt was clearly to be satisfied by the gift of two statues and the payment of £40. The statues having been delivered and the first £20 paid, only an instalment of £20 remained to be paid. The defendant having, therefore, on the 1st January, 1936, failed to pay that £20, the remaining balance of the £266, the original sum named, was £20. The plaintiff's claim for £218, which, in his (his lordship's) opinion, was not maintainable, was based upon giving the defendant credit for £20 and a value of £28 ascribed to the statues. No evidence of the value of the statues was admissible. There must be judgment for the plaintiff for £20.

COUNSEL: *H. H. Hanworth*, for the plaintiff; *John Senter*, for the defendant.

SOLICITORS: *Leslie Marrison; Kenneth Brown, Baker, Baker.*

[Reported by R. C. CALBURN, Esq., Barrister-at-Law.]

### Shiffman *v.* Order of the Hospital of St. John.

Atkinson, J. 4th and 9th March, 1936.

NEGLIGENCE—FLAGPOLE ERECTED NEGLIGENTLY IN PUBLIC PARK BY DEFENDANT—PLAINTIFF INJURED BY FALL OF POLE—DEFENDANT'S LIABILITY—RULE IN *Rylands* V. *Fletcher*.

In May, 1935, the defendants agreed, at the request of the police authorities, to erect a casualty tent in Hyde Park in connection with the Jubilee celebrations held on the 6th May. Near the tent they erected a flag-pole. The flag-pole, which was erected in an unsafe manner, was a source of attraction to children who repeatedly swung on the ropes by which it was supported. On the afternoon of the 6th May, while the police sergeant on watch was otherwise engaged, some children interfered with the pole, causing it to fall upon and injure the plaintiff who was lying on the grass nearby. He accordingly brought this action against the defendants for negligence. *Cur. adv. vult.*

ATKINSON, J., in giving judgment, said that, on reviewing all the facts, he was driven to the conclusion that the accident had been caused by the negligent way in which the pole was erected and by the insufficient measures taken to protect it in the circumstances. Although it might not be necessary to decide it, he thought that the defendants' liability might well rest on another ground. He could not see why this flag-pole did not come within the rule in *Rylands* v. *Fletcher* (1868), L.R.3, H.L. 330. The defendants had erected something exceptional which might easily be caused to fall and which, if it fell, was likely to do mischief to others, for it must fall on land not in the occupation of the defendants and on which the public had a right to be. The rule in *Rylands* v. *Fletcher* was not limited to the use of a defendant's own land: it was applicable as between licensees (*Charing Cross Electricity Supply Co.* v. *Hydraulic Power Co.* [1914] 3 K.B. 772, and per Lord Sumner, in *Rainham Chemical Works Ltd.* v. *Belvedere Fish Guano Co. Ltd.* [1921] 2 A.C. 465). The exception to the rule, namely, that a defendant was not liable for the acts of a stranger, must, in his (his lordship's) opinion, be subject to limitations. In *Box* v. *Jubb* (1879), 4 Ex. D.76, it had been said that the act must be that of a stranger over whom, and at a spot over which, the defendant had no control. Here the act of interference had been one which had been anticipated and which, in the circumstances, it was the defendants' duty to prevent. He (his lordship) did not decide the case on *Rylands* v. *Fletcher*, *supra*, although he could not see that it would not have been open to the plaintiff, in pleading, to rest his case on that ground if necessary.

COUNSEL: *Frederick Hallis*, for the plaintiff; *John Foster*, for the defendants.

SOLICITORS: *Tarlo & Co.; Lee & Pembertons.*

[Reported by R. C. CALBURN, Esq., Barrister-at-Law.]

### Ashton and Others *v.* Wainwright.

Goddard, J. 12th March, 1936.

LICENSING—CLUB—REGISTRATION—PRESCRIBED FEE AND RETURN PRESENTED TO CLERK TO JUSTICES—REFUSAL BY CLERK TO ACCEPT — WHETHER CLUB REGISTERED — SOLICITOR—OMISSION TO INFORM CLIENTS OF CLERK'S REFUSAL—LIABILITY FOR RESULTING DAMAGE.

Action for damages against a solicitor for negligence.

The plaintiffs were the treasurer, Hill, and members of the committee of a working-man's club with a registered address at 31, St. Peter's-avenue, Cleethorpes. Number 26 in the same street was the registered address of a club called "the Danesbury Club," which had had trouble with the Excise authorities. The officials of the club had disappeared, and the premises at No. 26 were empty. The plaintiffs wished to move from No. 31 to No. 26, and requested the defendant to act as their solicitor in the registration of the New Atlantic

Club as of No. 26, and in the preparation of a tenancy agreement with the owners of No. 26. The police authorities were anxious to have the Danesbury Club struck off the register, but were unable to effect this because there were no club officials on whom to serve a summons. The defendant tendered the return and fee of 5s. prescribed by s. 92 of the Licensing Consolidation Act, 1910, to the clerk to the justices, who refused to accept the fee or the return, on the ground that the Danesbury Club was inscribed on the register as of No. 26. The defendant immediately sent the fee and return back to the clerk, insisting that the registration must be accepted. The defendant then wrote to Hill that he had registered the New Atlantic Club as of No. 26, and subsequently he told him that the club could move into No. 26 on the 1st February, 1935, if they wished. On the 30th January, the clerk to the justices wrote to the defendant again refusing to accept the registration. The defendant replied that the clerk had no power to refuse the registration and asked him to reconsider the position. On the 6th February the police raided No. 26 and seized the liquors found there. The plaintiffs were subsequently convicted of supplying drink at an unregistered club and were each fined £10; £4 was added to the fines for costs.

GODDARD, J., said that, although the defendant had formed the view that the clerk was wrong in refusing to accept the registration, he (his lordship) could not excuse him for not informing his clients of the position. It had been submitted on behalf of the defendant that, even if he had been negligent, the damage to the plaintiffs had resulted not from that fact but from a decision of the justices which was wrong in law. The plaintiffs' conviction gave rise to no estoppel against the defendant, and if he could show that the conviction was wrong he would not be liable to the plaintiffs for the damage by way of fines and costs which they had suffered. It accordingly became necessary to consider whether the justices' decision had been right. *Lees* v. *Lovie* [1912] 2 K.B. 425, decided that the functions of the clerk to the justices in relation to the registration of clubs was purely ministerial. It had been argued for the defendant on that case that directly the particulars and fee were left with the clerk the club was automatically registered. In his (his lordship's) opinion that was not so. If the clerk accepted the particulars for registration, then no doubt the club was registered, even though, through forgetfulness or some other reason, he omitted to enter them on the register (*De Ponthieu* v. *Pennyfeather* (1814), 5 Taunt. 634). But if the clerk refused the particulars and said that, even if they were left, he would not register the club, then, although he might be wrong in taking up that attitude, the club could not be said to be registered. When a ministerial officer refused to do his duty, *mandamus* lay in order to compel him to do so. If, though a ministerial officer refused to do that which the law directed him to do, the act might be regarded nevertheless as done, there would be no need for *mandamus*. The only authority cited in support of that proposition had been *De Ponthieu* v. *Pennyfeather*, *supra*, which as he (his lordship) had said was inapplicable. Authorities to the contrary were, *Reg.* v. *Yarborough* (1840), 12 A. & E. 416, *Fox* v. *Davies* (1848), 6 C.B. 11, and *Reg.* v. *Registrar of Joint Stock Companies* (1888), 21 Q.B.D. 131. The New Atlantic Club, therefore, had been unregistered, the convictions were right, and the defendant was liable to his clients for the damage they had suffered.

COUNSEL: *Richard Elwes*, for the plaintiffs; *Graham Swanwick*, for the defendant.

SOLICITORS: *Alex Browne*, Grimsby; *Wainwright, Wolfe and Co.*, Grimsby.

[Reported by R. C. CALBURN, Esq., Barrister-at-Law.]

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The next General Quarter Sessions of the Peace for the Borough of Walsall will be held at the Guildhall, Walsall, on Thursday, the 14th May, 1936, at 10 o'clock in the forenoon.

## Potato Marketing Board *v.* Harlow.

Horridge, J. 17th March, 1936.

AGRICULTURAL MARKETING—POTATOES—REGISTERED PRODUCER—EXCESS ACREAGE—LEVY IN RESPECT OF—VALIDITY—POTATO MARKETING SCHEME (APPROVAL) ORDER, S.R. & O., 1933, No. 1186.

On the 10th April, 1934, the plaintiff Board, acting under their powers as conferred by the Potato Marketing Scheme, 1933, imposed a levy whereby each registered producer was required to pay the Board £5 for each acre by which his 1934 acreage exceeded his basic potato acreage. Basic potato acreage was defined under a schedule as the maximum number of acres of land in the occupation of a producer, being land in Great Britain, which was under potatoes in the previous year. The defendant, who was a registered producer, had excess acreage, for 1934, of ten acres, whereupon the Board imposed a levy of £50, which sum they now sought to recover in this action. The levy was imposed by virtue of a resolution passed under a paragraph of the Scheme which entitled the Board to make a levy if, in any year, the potato acreage of a registered producer exceeded his basic potato acreage, and if, in the opinion of the Board, the expenditure of the Board was likely to be increased by reason of such excess acreage. It was stated for the Board that the Scheme had been in operation since the 21st December, 1933, and that its object was to prevent an excess of production over marketability. The case was important, although the claim immediately involved was small. The Board had brought this action in the High Court in order to obtain a ruling on the validity of the levy. It was contended for the defendant that the levy was *ultra vires* the Board under the powers conferred on it by the Scheme, and that it was an arbitrary penalty intended to penalise production.

HORRIDGE, J., said that on the 10th April, 1934, there had been a board meeting of the Marketing Board, and that they had then purported to act in pursuance of para. 82 of the Scheme, which had been duly sanctioned and passed. They had required the defendant to pay £5 per acre of his excess acreage, as they were empowered to do by the paragraph if, in their opinion, their expenditure in the operation of the Scheme was, or was likely to be, increased by that excess acreage. The Board had met honestly and in good faith, and had passed a resolution that, in their opinion, the Board's expenditure was likely to be increased. They had wisely dealt with each registered producer separately and not with them all as a group. They took the view that the expenditure of the Board was likely to be increased if any producer (considered separately) increased his potato acreage. There must be judgment for the Board for the amount claimed.

COUNSEL: *A. T. Miller*, K.C., and *Hubert Hull*, for the plaintiffs; *H. Heathcote-Williams*, for the defendant.

SOLICITORS: *Ellis & Fairbairn; Edward Betteley, Smith and Stirling.*

[Reported by R. C. CALBURN, Esq., Barrister-at-Law.]

## Starkey *v.* Hall.

Lord Hewart, C.J., du Parcq and Goddard, JJ.
22nd April, 1936.

ROAD TRAFFIC—INSURANCE POLICY—VALID AND IN FORCE—CERTIFICATE NOT DELIVERED TO ASSURED—WHETHER POLICY EFFECTIVE FOR PURPOSES OF THE ACT—ROAD TRAFFIC ACT, 1930 (20 & 21, Geo. 5, c. 43), ss. 35 (1), 36 (5).

Appeal by case stated from a decision of Rotherham justices.

An information was preferred charging the appellant, Starkey, with having, in September, 1935, unlawfully used a motor-car without having in force in relation to the use of the vehicle such a policy of insurance or such a security in respect of third party risks as complied with the requirements of Pt. II of the Road Traffic Act, 1930. At the hearing of the

informations, the following facts were proved or admitted: On the 6th September, 1935, the appellant, when driving his car, was stopped by a police-constable and asked to produce his certificate of insurance. He failed to do so, and the constable served him with written notice to produce the certificate in person at Sheffield City Police Station within five days. On the 10th September, a certificate of insurance issued in the name of the appellant was received by post at Sheffield City Police Station from a firm called Mutual Finance, Limited, who asked for the certificate to be returned to them. The certificate was never delivered to the appellant by the insurer. Mutual Finance, Limited, were a company which sold motor-cars on hire-purchase terms and paid, on behalf of a person requiring an insurance policy for the use of a motor-car, the full amount of the premium. The proposal form was prepared for and signed by the person to be insured. The insurance policy and certificate were then obtained by Mutual Finance, Limited, direct from the insurer and retained by them, the premium being collected from the insured person by instalments.. After all instalments had been paid, the certificate and policy were handed to the insured person. Section 35 (1) of the Act of 1930 imposes on a motorist the obligation of taking out in respect of his car a third party policy which shall comply with the requirements of the Act. By s. 36 (5) a policy is of no effect for the purposes of the Act unless a certificate of insurance in the prescribed form is delivered to the assured by the insurer. It was contended for the appellant that a valid policy which complied with the requirements of Pt. II of the Act had been issued to him by the insurer, and that such policy was in force; alternatively, that Mutual Finance, Limited, were the persons by whom the policy was effected, and that delivery of the certificate to them was a sufficient compliance with the Act. It was contended for the respondent that the Act clearly intended that the certificate should be in the possession of the insured person, and that the person who effected an insurance could only be the person who signed the proposal form and in whose name the policy was issued. The justices were of opinion that the appellant was the person who effected the insurance, and that the certificate of insurance had not been delivered to him by the insurer, and that the policy was of no effect for the purpose of the Act. They accordingly convicted the appellant and fined him 40s.

Lord Hewart, C.J., said that in his opinion the justices were obviously right for the reasons which they had given. Section 36 (5) contemplated that there might be in existence a valid policy of insurance, but the Legislature had nevertheless thought it necessary in the interests of the public to provide that that valid policy should be of no effect unless and until there was delivered by the insurer to the person by whom the policy was effected a proper certificate. The appellant never had such a certificate, and there was no evidence that it was received by Mutual Finance, Limited, as his agents. On the contrary, they held it under a scheme which might have attractive features for both parties, one unattractive feature of which, however, was that the scheme might render compliance with the Act impossible. The appeal must be dismissed.

du Parcq and Goddard, JJ., agreed.

Counsel: *Frank Soskice*, for the appellants; *Vernon Gattie*, for the respondent.

Solicitors: *David Balfour & Co.; C. L. des Forges*, Town Clerk, Rotherham.

[Reported by R. C. Calburn, Esq., Barrister-at-Law.]

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The Town and Country Planning Division of the Ministry of Health have moved from Whitehall to Inveresk House, in the Strand, and in future all communications should be addressed to the Secretary, Ministry of Health, Town and Country Planning Division, Inveresk House, Strand, W.C.2. The telephone number is Temple Bar 9358.

## Probate, Divorce and Admiralty Division.

### Menon *v.* Menon and Warth.

Sir Boyd Merriman, P., and a Common Jury.
7th April, 1936.

Divorce — Damages — Prior Action for Enticement Settled on Payment—Effect on Claim for Damages in Petition—Bases of Assessment the same in both Suits—No Damages Recovered—Costs.

This petition for dissolution raised the question as to how far a husband who has received damages in an action for enticement is thereby precluded from recovering damages in a divorce suit based on the same facts. In January, 1935, the wife finally left the husband and went to live with the co-respondent. On 20th May the husband issued a writ for enticement. On 23rd May the wife was interviewed on behalf of the husband for the purpose of obtaining information of the adultery admitted by her with the co-respondent, upon which to found a divorce petition. On 24th May the writ with statement of claim in the enticement suit were served, that suit being settled on 13th June for £500 agreed damages and costs. On 4th July the divorce petition, comprising a claim for damages, was served. There was no defence to the allegations of adultery, but the co-respondent filed an answer contesting the claim for damages on the ground that he had already compensated the husband in the settlement of the prior action for enticement. Counsel on behalf of the co-respondent submitted that although technically there was a difference in the two claims, the basis of damages was the same in both, the loss suffered by the husband through having been deprived of the wife's society and services. Counsel appearing for the husband, in answer to the court, did not contest that the same principles as to damages applied in both classes of suit.

Sir Boyd Merriman, P., in the course of summing up, directed the jury that they must take into account the sum of £500 accepted in settlement of the action for enticement, the claim there being in substance much the same as the claim for damages in the petition. They should consider whether that sum had been intended to be in full settlement of all the husband's claims, or whether it had been intended only to cover the heads of damage peculiar to an enticement claim; if the latter, they were entitled to award a further sum in the present suit. In the result the jury found that no damages should be awarded to the petitioner. A decree *nisi* was pronounced, with no order for costs.

Counsel: *R. Castle-Miller*, for the petitioner; *William Latey* (*A. C. D. Jackson* with him), for the co-respondent.

Solicitors: *Lake & Son; Wood & Wootton.*

[Reported by J. F. Compton-Miller. Esq., Barrister-at-Law.]

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# Obituary.

## Mr. G. W. HOLFORD KNIGHT, K.C.

Mr. George Wilfrid Holford Knight, K.C., Recorder of West Ham, of Brick-court, Temple, died in hospital in London on Sunday, 26th April, at the age of 59. Mr. Knight, who was educated at London University, was called to the Bar by the Middle Temple in 1903, and joined the south-eastern circuit and the Central Criminal Court Bar Mess. He became standing counsel to the Royal Mint in 1911. In 1930 he took silk, and was appointed Recorder of West Ham. He became Labour Member of Parliament for Nottingham (South) in 1929, and in 1931 he held the same seat in the National Labour interest. Mr. Knight advocated the admission of women to the English Bar in 1913, and was a supporter of divorce reform in Parliament. He was a Freeman of the City of London.

## Mr. W. W. WYNNE.

Mr. Walter Watkyn Wynne, solicitor, head of the firm of Messrs. Norris & Wynne, of Stone, Staffordshire, died on Wednesday, 15th April, at the age of 68. Mr. Wynne, who was educated at Worthing College and Downing College, Cambridge, was admitted a solicitor in 1892. He was clerk to the Stone Justices and clerk to the Stone Rural District Council.

## Mr. W. WELCHMAN.

Mr. William Welchman, retired solicitor, senior partner in the firm of Messrs. Welchman, Dewing & Wace, of Wisbech, died recently. Mr. Welchman, who was admitted a solicitor in 1871, was formerly coroner for the northern district of the Isle of Ely. He relinquished that appointment in 1905.

# Parliamentary News.

## Progress of Bills.

## House of Lords.

Army and Air Force (Annual) Bill.
Read Third Time. [29th April.

Coventry Corporation Bill.
Read First Time. [28th April.

East Lothian County Council Order Confirmation Bill.
Reported. [28th April.

Gas Light and Coke Company (No. 1) Bill.
Read First Time. [28th April.

Hereford Corporation Bill.
Read First Time. [28th April.

London Midland and Scottish Railway Bill.
Read First Time. [28th April.

Mersey Docks and Harbour Board Bill.
Read Second Time. [29th April.

Ministry of Health Provisional Order (Bridport Joint Hospital District) Bill.
Read Second Time. [29th April.

Ministry of Health Provisional Order (Luton) Bill.
Read Second Time. [29th April.

Ministry of Health Provisional Order (Matlock) Bill.
Read Second Time. [29th April.

North Wales Electric Power Bill.
Read First Time. [28th April.

South Staffordshire Water Bill.
Read Third Time. [29th April.

Thornton Cleveleys Improvement Bill.
Read Second Time. [29th April.

Trial of Peers (Abolition of Privilege) Bill.
Read Second Time. [28th April.
Uckfield Water Bill.
Read First Time. [28th April.

## House of Commons.

Bognor Regis Urban District Council Bill.
Read Second Time. [27th April.
Buckingham's Charity in Dunstable Bill.
Reported, without Amendment. [28th April.
Coventry Corporation Bill.
Read Third Time. [24th April.
East Lothian County Council Order Confirmation Bill.
Read Third Time. [27th April.
Finance Bill.
Read First Time. [28th April.
Great Western Railway (Ealing and Shepherd's Bush Railway Extension) Bill.
Reported, with Amendments. [23rd April.
Hereford Corporation Bill.
Read Third Time. [24th April.
London and North Eastern Railway (London Transport) Bill.
Reported, with Amendments. [23rd April.
London Passenger Transport Board Bill.
Reported, with Amendments. [28th April.
Ministry of Health Provisional Order (Stockton-on-Tees) Bill.
Read Second Time. [29th April.
North Metropolitan Electric Power Supply Bill.
Read Second Time. [27th April.
Pilotage Authorities (Limitation of Liability) Bill.
Read Second Time. [24th April.
Rhymney Valley Sewerage Board Bill.
Read Second Time. [27th April.
Rickmansworth and Uxbridge Valley Water Bill.
Read Second Time. [27th April.
Shops (Sunday Trading Restriction) Bill.
Amendments considered. [24th April.
South Staffordshire Water Bill.
Read First Time. [29th April.
South Suburban Gas Bill.
Read Second Time. [27th April.
Special Areas Reconstruction (Agreement) Bill.
Read First Time. [28th April.
Surrey County Council Bill.
Reported, with Amendments. [29th April.
Tring Gas Bill.
Read Second Time. [27th April.
Uckfield Water Bill.
Read Third Time. [24th April.
Voluntary Hospitals (Paying Patients) Bill.
Reported, without Amendment. [28th April.
Weights and Measures (Scotland) Bill.
Read First Time. [28th April.

# Rules and Orders.

THE RULES OF THE SUPREME COURT (No. 2) 1936. DATED APRIL 8, 1936.

We, the Rule Committee of the Supreme Court, hereby make the following Rules :—

1. Rule 10 of Order III shall be revoked and the following Rule shall be substituted therefor :—

" 10. Where an action for the recovery of money lent by a moneylender or for the enforcement of any agreement or security relating to any such money is brought by the lender or an assignee, the indorsement on the writ shall state, in addition to any other particulars, the fact that at the time of making the loan or contract the plaintiff or (in an action by an assignee) the original assignor was a licensed moneylender, and if the writ be specially indorsed under Rule 6 of this Order, shall also state—

(*a*) the date on which the loan was made ;
(*b*) the amount actually lent to the borrower ;
(*c*) the rate per cent. per annum of interest charged ;
(*d*) the date when the contract for repayment was made ;
(*e*) the fact that a note or memorandum of the contract was made, and was signed by the borrower ;
(*f*) the date when a copy of the note or memorandum was delivered or sent to the borrower ;
(*g*) the amount repaid ;
(*h*) the amount due but unpaid ;
(*i*) the date upon which such unpaid sum or sums became due ;
(*j*) the amount of interest accrued due and unpaid on every such sum."

2. In Rule 16 of Order XVI the following words shall be omitted :—" Married women may sue and be sued as provided by the Married Women's Property Act, 1882."*

3. In paragraph (*b*) of Rule 1 of Order XX the words from " summons " (where this word appears for the second time) down to the end of the paragraph shall be omitted and the following words shall be substituted therefor—

" or within ten days or in the Chancery Division twenty-one days after appearance, provided that the times prescribed by this paragraph may be enlarged by consent in writing or by the Court or Judge."

4. In Rule 6 of Order XXI after the word " extended " the following words shall be inserted :—" by consent in writing or ".

5. In Rule 21 of Order XXI after the word " unless " the following words shall be inserted :—" he is in possession by virtue of a lease or tenancy granted by the plaintiff or his predecessor in title or ".

6. In paragraph (1) of Rule 2 of Order XXII after the word " court " the following words shall be inserted :—" or, where more than one payment into court has been made, within seven days of the receipt of the notice of the last payment into court,".

7. The following amendments shall be made in paragraph (1) of Rule 17 of Order XXII :—

(*a*) The following words shall be omitted :—
" Consolidated Three Pounds per cent. Annuities : " " Reduced Three Pounds per cent. Annuities : " " War Loan, Three and a Half per cent. Inscribed Stock, 1925–1928 ; " " War Loan, Four and a Half per cent. Inscribed Stock 1925–1945 : " " Exchequer Bills ; " " Metropolitan Consolidated Stock, Three Pounds Ten Shillings per cent : " " London County Council Three and a half per cent stock : " " Registered London County Five and Three Quarters per cent. Bonds, 1930 : "

(*b*) After the words " Four and a Half per cent. London County Consolidated Stock, 1945–1985 : " the following words shall be inserted :—

" Two and Three-quarters per cent. London County Consolidated Stock, 1960–1970 : ".

8. The following amendments shall be made in Rule 4 of Order XXXIV :—

(*a*) the words " a married woman (not being a party thereto in respect of her separate property or of any separate right of action by or against her) " shall be omitted and the word " an " shall be substituted therefor,

(*b*) after the words " affect the interest of such " the words " married woman ' 'shall be omitted.

9. In Rule 5 of Order XXXIV the words " married woman " shall be omitted.

10. Rule 1 of Order 47 shall be revoked and the following Rule shall be substituted therefor :—

" 1.—(1) A judgment or order that a party do recover possession of any land may by leave obtained on ex parte application to the Court or a Judge supported by affidavit, be enforced by writ of possession in manner immediately before the 1st November, 1875, used in actions of ejectment in the Superior Courts of Common Law.

(2) Such leave shall not be given unless it is shown that all persons in actual possession of the whole or any part of the land have received such notice of the proceedings as may be considered sufficient to enable them to apply to the Court for relief or otherwise."

11. Paragraph (g) of Rule 12 of Order LIV shall be omitted.

12. The summons and order department and the crown office and associates departments shall close on Saturdays at one in the afternoon instead of half-past one and accordingly in Order LXIII Rule 9 the word " half-past " shall be omitted wherever it occurs.

13.—(1) These Rules may be cited as the Rules of the Supreme Court (No. 2), 1936, and the Rules of the Supreme Court, 1883, shall have effect as amended by these Rules.

(2) These Rules shall come into operation on the 20th day of April, 1936.

Dated the 8th day of April, 1936.

| | |
|---|---|
| *Hailsham*, C. | *A. C. Clauson*, J. |
| *Hewart*, C.J. | *C. J. W. Farwell*, J. |
| *Wright*, M.R. | *T. J. O'Connor.* |
| *F. B. Merriman*, P. | *A. W. Cockburn.* |
| *Rigby Swift*, J. | *C. H. Morton.* |
| *Finlay*, J. | *Roger Gregory.* |

* 45 & 46 Vict. c. 75.

Mr. John Backhouse Beckton, solicitor, of Carlisle and Abbey Town, Cumberland, left £10,354, with net personalty £5,687.

# Societies.

## Lincoln's Inn.

GRAND DAY.

Tuesday, 28th April, being Grand Day in Easter Term at Lincoln's Inn, the Treasurer (Lord Russell of Killowen) and the Masters of the Bench entertained at dinner.

Those present were: The Earl of Lucan, Earl Peel, Lord Ritchie of Dundee, Lord Atkin, Lord Macmillan, Lord Snell, Lord Roche, Lord Morison (Treasurer of Gray's Inn), Sir Lancelot Sanderson, Mr. Albert V. Alexander, M.P., Lord Justice Greene, Sir James Swinburne, Sir William Llewellyn (President of the Royal Academy), Colonel Sir Charles Gordon-Watson, Sir Roger Gregory, Sir Adrian Pollock, Mr. H. E. Manning, K.C. (Attorney-General for New South Wales), Mr. W. Curtis Green, Mr. Max Beerbohm, the Preacher (The Ven. V. F. Storr, Archdeacon of Westminster), the Chaplain (The Rev. Eric Abbott), and the Under Treasurer (Sir Reginald Rowe).

The Benchers present in addition to the Treasurer were: Sir Alfred Hopkinson, K.C., Sir Paul Lawrence, Mr. C. E. E. Jenkins, K.C., Sir Thomas Hughes, K.C., Sir Frederick Pollock, K.C., Lord Blanesburgh, Lord Justice Romer, Lord Alness, Sir Felix Cassel, K.C., Mr. Justice Clauson, Mr. Justice Macnaghten, Mr. F. H. L. Errington, Mr. Theobald Mathew, Sir Arthur Underhill, Lord Maugham, Sir Herbert Cunliffe, K.C., Mr. Justice Atkinson, Sir Malcolm McIlwraith, K.C., Judge Thompson, K.C., Sir Gerald Hurst, K.C., Mr. W. E. Tyldesley Jones, K.C., His Honour Hugh Sturges, K.C., Judge Reeve, K.C., Mr. Justice Crossman, Mr. Wilfrid Hunt, Mr. Tom Eastham, K.C., Mr. J. H. Stamp, Mr. A. L. Ellis, Mr. Justice Bennett, Mr. Gavin Simonds, K.C., Mr. H. B. Vaisey, K.C., Mr. H. T. Methold, Mr. R. H. Hodge, Mr. F. D. Morton, K.C., Mr. C. W. Turner, Mr. R. A. Willes, Mr. L. L. Cohen, K.C., Sir George Rankin, Mr. W. Cleveland-Stevens, K.C., Mr. Norman Daynes, K.C., Mr. Lewis Noad, K.C., Mr. A. P. Vanneck, Mr. C. E. R. Abbott, Mr. L. W. Byrne, and Mr. John Bennett.

## Law Students' Debating Society.

At a meeting of the Society held at the Law Society's Court Room, on Tuesday, 21st April (Chairman, Mr. J. R. Campbell Carter), the subject for debate was: "That this House urges His Majesty's Government to consider the sacrifice of Colonies in an effort to establish world peace." Mr. A. B. Rae opened in the affirmative; Mr. G. Roberts opened in the negative. The following members also spoke: Mr. J. E. Terry, Miss U. A. Hastie, Messrs. H. Peck, H. J. Baxter, M. C. Batten, J. L. Lewis, A. N. Buckmaster, E. C. Durham, W. M. Pleadwell, E. Garber and P. Rosen. The Chairman having summed up, the motion was lost by ten votes. There were twenty-four members and five visitors present.

At a meeting of the Society held at The Law Society's Court Room, on Tuesday, 28th April (Chairman, Mr. R. W. Jackling), the subject for debate was: "That this House deplores the decisions of the House of Lords in the case of *Elliot* v. *Lord Joicey and Others* [1935] A.C. 209." Mr. G. M. Parbury opened in the affirmative; Mr. A. Simpkins opened in the negative. Mr. P. W. Iliff seconded in the affirmative; Mr. B. W. Main seconded in the negative. The following members also spoke: Messrs. G. Russo, J. Montgomerie, J. R. Campbell, Carter, G. Roberts, and I. L. Lewis. The opener having replied, the motion was lost by one vote. There were fifteen members present.

## The Association of County Court Registrars.

This Association held its seventy-ninth Annual Meeting at 60, Carey-street, the annexe to The Law Society's Hall. After deploring the loss of several members by death and resignation and the consequent reduction in the Association's numbers, Mr. H. H. Smith (Rochester), the President, said that the principal matter now before the committee of the Association was the new rules which were being made under the County Courts Act, 1934. As soon as each rule was drafted it had been at once supplied by the Rules Committee to the members of the Association's Committee. The Association was fortunate in being represented upon the Rules Committee by Mr. G. Hicks (Shoreditch), who had, since March, 1935, given practically his whole time to the preparation of the rules and had given the committee valuable explanations of their scope. The publication of the new rules would mean that registrars would have to learn their work over again and instruct their staffs afresh. The committee had gone carefully into the draft rules and had made various suggestions, many of which had been adopted.

Two matters arising out of the Law Reform (Married Women and Tortfeasors) Act, 1935, had been considered by the committee: whether a married woman could act as next friend, and whether a married woman trader could be made bankrupt. The President felt that she could act as a next friend, but did not know of any decision governing her position in bankruptcy if she were a trader.

By the amendments to the County Court Funds Rules registrars of part-time courts, after the 1st January, would still be required to give some guarantee, but if they considered that this security was excessive in comparison with the money entrusted to them, they would be able to apply to the department for its reduction. Registrars of whole-time courts would not now have to give any guarantee. It often happened that, when compensation was paid in respect of the death of a workman, it included a sum allotted to funeral expenses. The department would be willing, on the application of registrars, to consider whether the fee for the payment of funeral expenses into court might not be remitted. Registrars should ask for this concession whenever possible. The President said that he had given evidence before the Royal Commission on the Dispatch of Business in the Courts and had been cross-examined by learned counsel for two-and-a-half hours, coming through fairly well. The new extent of the county court jurisdiction had not been settled, but registrars would, doubtless, be able to cope with it.

The passing of the new rules would compromise a large number of decisions previously given by the committee on practice points. Questions arising after the operation of the rules would have to be considered in the light of the new rules as well as of past decisions. The Lord Chancellor was proposing to make alterations in the names of the Metropolitan Courts which would considerably simplify their description and make it more prominent at the head of forms.

Mr. H. H. Payne (Portsmouth), honorary secretary, who seconded the President's motion to adopt the report and accounts, spoke of a decrease in membership due to the amalgamation of courts, but revealed a stable financial position. He appealed for more voluntary support by registrars, especially those who from time to time became responsible for more courts.

# Legal Notes and News.

## Honours and Appointments.

It is announced by the Colonial Office that His Majesty the King has been pleased to approve the appointment of Sir SIDNEY SOLOMON ABRAHAMS, Chief Justice, Tanganyika, to be Chief Justice, Ceylon, in succession to Sir Philip James Macdonell.

The King has approved a recommendation of the Home Secretary that Mr. W. R. HORNBY STEER be appointed Recorder of South Molton, to succeed the late Mr. S. C. N. Goodman, K.C. Mr. Steer was called to the Bar by the Inner Temple in 1922.

The Lord Chancellor has appointed Mr. FRANCIS BLUNT to be the Registrar of Macclesfield and Congleton County Courts as from the 20th April, 1936. Mr. Blunt was admitted a solicitor in 1911.

The Board of Trade have appointed, with effect from the 7th April, 1936, Mr. FREDERICK HAROLD LANGMAID, Official Receiver in Bankruptcy at Bradford, to be Senior Official Receiver in Bankruptcy at Manchester in the place of Mr. Leslie Arthur West.

Mr. T. O. D. STEEL, solicitor, of Hereford, and under-sheriff for the county, was at a magistrates' meeting at Hereford last Monday appointed Clerk to Weobley Trustees, in succession to Mr. A. R. Innes Smith, who has resigned. Mr. Steel was admitted a solicitor in 1930.

## Professional Announcements.

(2s. per line.)

STEPHENS GRAHAM WRIGHT & CO., of St. Austell, Fowey, St. Blazey and Mevagissey, Cornwall, announce that the partnership between WALTER HILL GRAHAM, HENRY NEWCOME WRIGHT and JONATHAN COUCH has been dissolved by mutual consent as from the 6th April, 1936. WALTER HILL GRAHAM and JONATHAN COUCH will continue in partnership at St. Austell, Fowey and St. Blazey under the style of GRAHAM COUCH & CO., and Dr. HENRY NEWCOME WRIGHT has taken into partnership WILLIAM GARFIELD SCOWN and will practice at St. Austell, Par and Mevagissey under the style of STEPHENS, WRIGHT & SCOWN.

SOLICITORS & GENERAL MORTGAGE & ESTATE AGENTS ASSOCIATION.—A link between Borrowers and Lenders, Vendors and Purchasers.—Apply, The Secretary, Reg. Office: 12, Craven Park, London, N.W.10.

## Notes.

The Secretary of the Committee for Great Britain of the International Union of Local Authorities has written to the Corporation of London inviting the appointment of delegates to attend the sixth congress of the union, to be held in Berlin and Munich from 8th June to 13th June next.

The twenty-fourth Annual National Conference of the National Association of Probation Officers will be held at the Edward VII Rooms, Hotel Victoria, Northumberland Avenue, London, S.W.1 (between Trafalgar Square and Charing Cross Underground Station), from 4th to 5th May, 1936.

Mr. C. W. Brighten (Maidenhead), Mr. F. W. Hall (Alnwick), Sir Stanhope Rolleston (Leicester), Mr. W. F. Trumper (London), Mr. Leslie S. Wood (East Grinstead), and Major A. G. Wykeham-Musgrave (London) have been elected, as from 9th July, to fill the six vacancies on the "elected" portion of the council of the Land Agents' Society.

The Chief Constable of Liverpool (Mr. A. K. Wilson), in his annual report to the Watch Committee for 1935, states that the number of juveniles who came under the notice of the police last year was 2,357, an increase of 256 compared with 1934. Crime among juveniles was not only increasing, but it appeared to be increasing at a more rapid rate each year, and he regarded this as a most serious aspect of criminal statistics. A disquieting fact was the number of juveniles appearing before the court for the second time.

In the next Chadwick Public Lecture, Professor S. D. Adshead, F.R.I.B.A., proposes to draw attention to those clauses in the Town Planning Act of 1932 which were specially drafted to deal with the planning of a built-up area, and he will point out the administrative facilities connected therewith. The lecturer will also explain the difficulties of separating the administration of the London Building Acts from the Town Planning Act. The lecture will be given at the Royal Institute of British Architects on Thursday, 7th May, at 8.15 p.m. Admission free.

A suggestion that local authorities could now leave to private enterprise the problem of providing new houses, and themselves concentrate on slum clearance, was made by Sir Enoch Hill, President of the Halifax Building Society and Deputy-Chairman of the National Association of Building Societies, at the recent opening of the extension of the Bradford Sunbridge Road offices of the Halifax Building Society. He said that since the Armistice 2,800,000 houses had been erected, 2,000,000 by private enterprise and 800,000 by local authorities.

## Court Papers.

### Supreme Court of Judicature.

ROTA OF REGISTRARS IN ATTENDANCE ON.

| DATE. | EMERGENCY ROTA. | APPEAL COURT I. | GROUP I. Mr. JUSTICE EVE. Witness Part I. | Mr. JUSTICE BENNETT. Witness Part II. |
|---|---|---|---|---|
| | Mr. | Mr. | Mr. | Mr. |
| May 4 | More | Jones | *Hicks Beach | Jones |
| ,, 5 | Hicks Beach | Ritchie | *Blaker | *Hicks Beach |
| ,, 6 | Andrews | Blaker | *Jones | Blaker |
| ,, 7 | Jones | More | Hicks Beach | *Jones |
| ,, 8 | Ritchie | Hicks Beach | *Blaker | Hicks Beach |
| ,, 9 | Blaker | Andrews | Jones | Blaker |
| | GROUP I. Mr. JUSTICE CROSSMAN. Non-Witness. | Mr. JUSTICE CLAUSON. Non-Witness. | GROUP II. Mr. JUSTICE LUXMOORE. Witness Part II. | Mr. JUSTICE FARWELL. Witness Part I. |
| | Mr. | Mr. | Mr. | Mr. |
| May 4 | Blaker | Andrews | *More | *Ritchie |
| ,, 5 | Jones | More | Ritchie | *Andrews |
| ,, 6 | Hicks Beach | Ritchie | *Andrews | *More |
| ,, 7 | Blaker | Andrews | More | *Ritchie |
| ,, 8 | Jones | More | *Ritchie | Andrews |
| ,, 9 | Hicks Beach | Ritchie | Andrews | More |

*The Registrar will be in Chambers on these days, and also on the days when the Court is not sitting.

## Stock Exchange Prices of certain Trustee Securities.

Bank Rate (30th June, 1932) 2%. Next London Stock Exchange Settlement, Thursday, 7th May, 1936.

| | Div. Months. | Middle Price 29 April 1936. | Flat Interest Yield. | ‡Approximate Yield with redemption |
|---|---|---|---|---|
| | | | £ s. d. | £ s. d. |
| **ENGLISH GOVERNMENT SECURITIES** | | | | |
| Consols 4% 1957 or after | FA | 116 | 3 9 0 | 2 19 3 |
| Consols 2½% | JAJO | 85½ | 2 18 6 | — |
| War Loan 3½% 1952 or after | JD | 105¾xd | 3 6 2 | 3 1 3 |
| Funding 4% Loan 1960-90 | MN | 117½ | 3 8 1 | 2 19 4 |
| Funding 3% Loan 1959-69 | AO | 104 | 2 17 8 | 2 15 3 |
| Victory 4% Loan Av. life 23 years | MS | 115½ | 3 9 3 | 3 1 0 |
| Conversion 5% Loan 1944-64 | MN | 118¾ | 4 4 2 | 2 4 10 |
| Conversion 4½% Loan 1940-44 | JJ | 111½ | 4 0 9 | 2 1 2 |
| Conversion 3½% Loan 1961 or after | AO | 107½ | 3 5 1 | 3 1 4 |
| Conversion 3% Loan 1948-53 | MS | 105 | 2 17 2 | 2 10 3 |
| Conversion 2½% Loan 1944-49 | AO | 101¾ | 2 9 1 | 2 5 0 |
| Local Loans 3% Stock 1912 or after | JAJO | 97 | 3 1 10 | — |
| Bank Stock | AO | 376 | 3 3 10 | — |
| Guaranteed 2¾% Stock (Irish Land Act) 1933 or after | JJ | 87 | 3 3 3 | — |
| Guaranteed 3% Stock (Irish Land Acts) 1939 or after | JJ | 96½ | 3 2 2 | — |
| India 4½% 1950-55 | MN | 114½xd | 3 18 7 | 3 3 11 |
| India 3½% 1931 or after | JAJO | 98 | 3 11 5 | — |
| India 3% 1948 or after | JAJO | 86 | 3 9 9 | — |
| Sudan 4½% 1939-73 Av. life 27 years | FA | 119 | 3 15 8 | 3 8 3 |
| Sudan 4% 1974 Red. in part after 1950 | MN | 116xd | 3 9 0 | 2 13 10 |
| Tanganyika 4% Guaranteed 1951-71 | FA | 115 | 3 9 7 | 2 15 4 |
| L.P.T.B. 4½% "T.F.A." Stock 1942-72 | JJ | 110 | 4 1 10 | 2 10 4 |
| **COLONIAL SECURITIES** | | | | |
| Australia (Commonw'th) 4% 1955-70 | JJ | 111 | 3 12 1 | 3 4 4 |
| *Australia (C'mm'nw'th) 3¾% 1948-53 | JD | 104 | 3 12 1 | 3 7 4 |
| Canada 4% 1953-58 | MS | 112 | 3 11 5 | 3 1 7 |
| *Natal 3% 1929-49 | JJ | 102 | 2 18 10 | — |
| *New South Wales 3½% 1930-50 | JJ | 101 | 3 9 4 | — |
| *New Zealand 3% 1945 | AO | 101 | 2 19 5 | 2 17 6 |
| Nigeria 4% 1963 | AO | 113 | 3 10 10 | 3 5 5 |
| *Queensland 3½% 1950-70 | JJ | 101 | 3 9 4 | 3 8 2 |
| South Africa 3½% 1953-73 | JD | 109 | 3 4 3 | 2 16 6 |
| *Victoria 3½% 1929-49 | AO | 100 | 3 10 0 | 3 10 0 |
| **CORPORATION STOCKS** | | | | |
| Birmingham 3% 1947 or after | JJ | 97 | 3 1 10 | — |
| *Croydon 3% 1940-60 | AO | 100 | 3 0 0 | 3 0 0 |
| Essex County 3½% 1952-72 | JD | 108 | 3 4 10 | 2 17 10 |
| Leeds 3% 1927 or after | JJ | 96 | 3 2 6 | — |
| Liverpool 3½% Redeemable by agreement with holders or by purchase | JAJO | 107 | 3 5 5 | — |
| London County 2½% Consolidated Stock after 1920 at option of Corp. | MJSD | 81 | 3 1 9 | — |
| London County 3% Consolidated Stock after 1920 at option of Corp. | MJSD | 96 | 3 2 6 | — |
| Manchester 3% 1941 or after | FA | 97 | 3 1 10 | — |
| *Metropolitan Consd. 2½% 1920-49 | MJSD | 101 | 2 9 6 | — |
| Metropolitan Water Board 3% "A" 1963-2003 | AO | 96 | 3 2 6 | 3 2 10 |
| Do. do. 3% "B" 1934-2003 | MS | 97 | 3 1 10 | 3 2 1 |
| Do. do. 3% "E" 1953-73 | JJ | 101 | 2 19 5 | 2 18 5 |
| Middlesex County Council 4% 1952-72 | MN | 114 | 3 10 2 | 2 17 10 |
| † Do. do. 4½% 1950-70 | MN | 116 | 3 17 7 | 3 1 6 |
| Nottingham 3% Irredeemable | MN | 95 | 3 3 2 | — |
| Sheffield Corp. 3½% 1968 | JJ | 107 | 3 5 5 | 3 3 0 |
| **ENGLISH RAILWAY DEBENTURE AND PREFERENCE STOCKS** | | | | |
| Gt. Western Rly. 4% Debenture | JJ | 115½ | 3 9 3 | — |
| Gt. Western Rly. 4½% Debenture | JJ | 127½ | 3 10 7 | — |
| Gt. Western Rly. 5% Debenture | JJ | 140½ | 3 11 2 | — |
| Gt. Western Rly. 5% Rent Charge | FA | 135½ | 3 13 10 | — |
| Gt. Western Rly. 5% Cons. Guaranteed | MA | 131½ | 3 16 1 | — |
| Gt. Western Rly. 5% Preference | MA | 121½ | 4 2 4 | — |
| Southern Rly. 4% Debenture | JJ | 114 | 3 10 2 | — |
| †Southern Rly. 4% Red. Deb. 1962-67 | JJ | 115½ | 3 9 3 | 3 2 4 |
| Southern Rly. 5% Guaranteed | MA | 131½ | 3 16 1 | — |
| Southern Rly. 5% Preference | MA | 122½ | 4 1 8 | — |

*Not available to Trustees over par. †Not available to Trustees over 115.
‡In the case of Stocks at a premium, the yield with redemption has been calculated as at the earliest date; in the case of other Stocks, as at the latest date.

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